

POOR LEGIBILITY

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City of Phoenix
OFFICE OF THE CITY ATTORNEY

April 15, 2002

PETER VAN HAREN
City Attorney

William Keener
Assistant Regional Counsel
U.S. Environmental Protection Agency
75 Hawthorne, 16th Floor
San Francisco, CA 94105

RE: Prospective Purchaser Agreement

Dear Bill:

Per our recent discussions, I am sending you the following documents to initiate the process of acquiring a Prospective Purchaser Agreement for certain real property located within the Motorola 52nd Street Superfund Site.

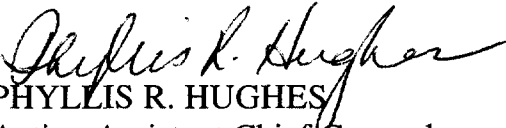
1. Prospective Purchaser Agreement ("PPA")—Grimmett Property, 4141 & 4143 E. Washington Street, Phoenix, AZ.
2. Redline comparing Grimmett PPA to first City of Phoenix/Aviation PPA (Dkt. 2000-06) (with original properties deleted)
3. Request for Prospective Purchaser Agreement and related documents:
 - a. Checklist
 - b. Property Documents
 - i. Property Information Table
 - ii. Preliminary Title Report
 - iii. Executed Conditional Purchase Agreement for Grimmett Property
 - iv. Proposed Amendment (Not yet executed)

Please let me know when you have received the necessary approvals for this PPA and the dates of publication in the Federal Register.

William Keener
April 15, 2002
Page 2

Thanks to all of you in Region that have assisted the City of Phoenix Aviation Department with this project.

Very truly,


PHYLLIS R. HUGHES
Acting Assistant Chief Counsel

PRH/lg

Enclosures

cc: Allyn Stern, Regional Counsel (without exhibits)
Nadia Hollan, Project Manager
Craig Reece (without exhibits)
Cynthia Parker
Tina Washington

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

IN THE MATTER OF:)	
Motorola 52 nd St.)	
Superfund Site)	DOCKET NO. 2002-07
)	
UNDER THE AUTHORITY OF THE)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL)	NOT TO SUE
RESPONSE, COMPENSATION, AND)	CITY OF PHOENIX
LIABILITY ACT OF 1980,)	
42 U.S.C. § 9601, <u>et seq.</u> ,)	
as amended.)	

I. INTRODUCTION

1. This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States on behalf of the Environmental Protection Agency ("EPA") and the City of Phoenix ("Settling Respondent"). The United States and Settling Respondent are collectively referred to herein as the "Parties".

2. This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq. and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

3. The Settling Respondent is a municipal corporation of the State of Arizona with responsibility for operation and management of the Phoenix Sky Harbor International Airport ("Sky Harbor"). The principal offices for Sky Harbor are currently located at 3400 Sky Harbor Boulevard, Phoenix, AZ 85034. Sky Harbor is located adjacent to the southern boundary of the Motorola 52nd Street Superfund Site in Phoenix, AZ and is not currently part of the Site. Settling Respondent plans to acquire a total of 400 acres of property as part of an expansion plan for Sky Harbor. Settling Respondent plans to acquire this property in phases and use this property for aviation-related uses, including, but not limited to, airfields, terminals, parking operations, air cargo operations, car rental operations, airport administrative functions and aircraft maintenance operations. This Agreement covers approximately 0.5 acres of land.

4. This Agreement applies only to the Two (2) contiguous parcels of property identified below (both of which are owned by

the same Seller). Settling Respondent has entered into a conditional purchase agreement with the owners of these two parcels for the City of Phoenix, as buyer, to purchase this property. These two parcels may be collectively referred to herein as "Property." Each parcel is located within the area encompassed by Operable Unit Two of the Motorola 52nd Street Superfund Site and are more specifically described in Exhibit 1.

a. Paul W. Grimmett, Jr. as Successor Trustee of the Grimmett Family Trust, and Individually, (collectively, "Seller") located at 4141 and 4143 E. Washington Street, Phoenix, Arizona, as described in Exhibit 1 of this Agreement, consisting of the 0.5 acre parcel currently in use by two (2) businesses, Supreme Auto Care Center and Drive Line Services of Phoenix, Inc. Located on the Property are two (2) buildings totalling approximately 6,679 sq. ft.

5. The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII, VIII, IX, and X, the potential liability of the Settling Respondent for the Existing Contamination at the Property which would otherwise result from Settling Respondent becoming the owner of the Property.

6. The Parties agree that the Settling Respondent's entry into this Agreement, and the actions undertaken by the Settling Respondent in accordance with the Agreement, do not constitute an admission of any liability by the Settling Respondent.

7. The resolution of this potential liability, in exchange for provision by the Settling Respondent to EPA of a substantial benefit, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

8. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

9. "Existing Contamination" shall mean:

a. any hazardous substances, pollutants or contaminants

present or existing on or under the Property as of the effective date of this Agreement;

b. any hazardous substances, pollutants or contaminants that migrated from the Property prior to the effective date of this Agreement; and

c. any hazardous substances, pollutants or contaminants presently at the Site that migrate onto or under or from the Property after the effective date of this Agreement.

10. "Institutional Controls" shall mean the covenants, easements, restrictions, conditions, and other equivalent requirements and controls authorized by EPA with respect to Existing Contamination for one or more of the following purposes: (1) to restrict the use of groundwater; (2) to limit human or animal exposure to Existing Contamination; (3) to ensure that there is no interference with the performance, operation, and maintenance of any selected response action; and (4) to ensure the integrity and effectiveness of any selected response action.

11. "Parties" shall mean the United States on behalf of EPA and the Settling Respondent.

12. "Property" shall mean that portion of the Site, encompassing approximately 0.5 contiguous acres, which is described in Exhibit 1 of this Agreement, that is listed in paragraph 4 above.

11. "Settling Respondent" shall mean the City of Phoenix.

14. "Site" shall mean the Motorola 52nd Street Superfund Site in Phoenix, Arizona. The Site shall include the Property, and all areas to which hazardous substances and/or pollutants or contaminants that may have been released from the Property have come to be located.

15. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

16. The Settling Respondent is a municipal corporation of the State of Arizona and the sponsor of Sky Harbor, which is subject to federal laws and grant assurances that pertain to the use of the Property and Sky Harbor. The Settling Respondent is the buyer in the Contingent Purchase Agreement for the Property located within the Site. The Contingent Purchase Agreement for the Property has an extended Closing Date, and the Property is to

be used for public purposes; therefore, EPA is willing to grant an extended period of time, up to eighteen (18) months, for the acquisition of the Property by Settling Respondent in order that the Property may be subject to this Agreement.

17. The Property consists of two continuous parcels located within the Site in an area currently consisting of commercial, industrial and residential uses.

18. The Settling Respondent has informed EPA that the Property is to be acquired for the purpose of expanding Sky Harbor. The Property will be used for aviation-related purposes, including but not limited to airfields, terminals, parking operations, air cargo operations, car rental operations, airport administrative functions and aircraft maintenance operations.

19. The Settling Respondent is a potentially responsible party at the Site due to its ownership of a portion of the Site. Settling Respondent has resolved its liability for EPA costs incurred at the Site and for a portion of EPA costs to be incurred at the Site in a Consent Decree entered in the United States District Court for the District of Arizona on November 29, 2000. The Parties acknowledge and agree that this Agreement and the Covenant Not to Sue in Section VIII hereof have no effect on Settling Respondent's status as a potentially responsible party due to its ownership of a portion of the Site (described in paragraph 27(b)).

20. The Settling Respondent represents, and for the purposes of this Agreement, EPA relies on those representations, that Settling Respondent's involvement with the Property has been limited to inspecting, auditing and performing environmental audits and other due diligence of the Property in connection with Settling Respondent's intended purchase of the Property.

IV. PAYMENT

21. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII herein, Settling Respondent agrees to pay to EPA the sum of Ten Thousand Dollars (\$10,000), within thirty (30) days of the effective date of this Agreement. The Settling Respondent shall make all payments required by this Agreement in the form of a certified check or checks made payable to "EPA Hazardous Substance Superfund," referencing the EPA Region 9, EPA Docket number 2002-07 and EPA Site Number 09BE, DOJ case number 90-11-3-06000/1 and name and address of Settling Respondent. Payment shall be sent to:

U.S. EPA
Region IX, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

Notice of payment (including a copy of the check and transmittal letter) shall be sent to those persons listed in Section XV (Notices and Submissions), and to:

Catherine Shen
Financial Management Specialist (PMD-6)
U.S. EPA Region IX
75 Hawthorne Street
San Francisco, California 94105

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Attn: DJ # 90-11-3-06000/1

22. Amounts due and owing pursuant to the terms of this Agreement but not paid in accordance with the terms of this Agreement shall accrue interest at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), compounded on an annual basis.

V. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

23(a). Commencing upon the date that it acquires title to the Property, Settling Respondent agrees to provide to EPA and its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is reasonably required under CERCLA and RCRA for the implementation of response actions at the Site, to the extent access to such other property is controlled by the Settling Respondent, for the purposes of performing and overseeing response actions at the Property and/or the Site under federal law. EPA agrees to provide reasonable notice to the Settling Respondent of the timing of any response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, ("RCRA") et. seq., and any other applicable statute or regulation, including any amendments thereto.

23(b). The Parties acknowledge that the Settling Respondent is purchasing the Property for future aviation-related uses and that FAA approval is required for construction and many other activities at the airport. Federal statutes, regulations and other authorities that will be applicable to the use and management of the Property include, but are not limited to, 49 U.S.C.A. Sections 47107(a), 47101(g) and 40113; 49 C.F.R. Part 1500 "Civil Aviation Security Rules"; 14 C.F.R. Part 139, "Airport Certification" including the Airport Certification Manual promulgated under 14 C.F.R. Subpart C; 14 C.F.R. Part 77, "Objects Affecting Navigable Airspace"; FAA Order 5100.38(A) Grants Manual, including Part V, Grant Assurances; and FAA Order 5190.6(A), Airport Operations Manual.

24. Within 15 days after Settling Respondent's acquisition of fee title to the Property, Settling Respondent shall submit to EPA for review and approval a notice to be filed with the Recorder's Office, Maricopa County, State of Arizona, which shall provide notice to all successors-in-title that the Property (as identified in Exhibit 1) is part of the Site, that EPA selected an interim groundwater remedy for the Site in July, 1994, and that the potentially responsible parties are subject to a U.S. EPA Administrative Order for Remedial Action Docket No. 98-15, requiring construction and two years of operation & maintenance of the OU2 remedy. Such notices shall identify the name and docket number of the case, and the date the Administrative Order was signed by EPA. The Settling Respondent shall record the notice(s) within 10 days of EPA's approval of the notice(s). The Settling Respondent shall provide EPA with a certified copy of the recorded notice(s) within 10 days of recording such notice(s).

25. The Settling Respondent, to the extent that it has legal authority to do so, shall ensure that assignees, successors in interest, lessees, and sublessees of each of the Property shall provide the same access and cooperation, including any Institutional Controls required for the Property. The Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on each of the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, and Section XI (Parties Bound/Transfer of Covenant), of the Agreement.

VI. DUE CARE/COOPERATION

26. The Settling Respondent shall exercise due care at the Property with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and

regulations. The Settling Respondent recognizes that the implementation of response actions at the Site may interfere with the Settling Respondent's use of the Property, and may require closure of its operations on the Property or a part thereof. The Settling Respondent agrees to cooperate fully with EPA in the implementation of response actions at the Property and further agrees not to interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the Settling Respondent's operations by such entry and response. In the event the Settling Respondent becomes aware of any action or occurrence which causes or threatens a release of hazardous substances, pollutants or contaminants at or from the Property that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all necessary and appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. §9603, or any other law, immediately notify EPA of such release or threatened release.

VII. CERTIFICATION

27(a). By entering into this agreement, the Settling Respondent certifies that to the best of its knowledge and belief it has fully and accurately disclosed to EPA all information known to Settling Respondent and all information in the possession or control of its elected officials, officers, directors, employees, contractors and agents which relates in any way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Property and to its qualification for this Agreement. As Phase II site investigation reports are completed, City will provide them to the EPA.

27(b). The Settling Respondent may be liable under CERCLA due to its ownership of the Honeywell International facility located on East Air Lane, Phoenix, Arizona as described in City Leases numbered 2190 and 3293. Aside from any liability that Settling Respondent may have incurred by reason of its ownership of the aforementioned Honeywell International facility, Settling Respondent certifies that, to the best of its knowledge and belief it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Site. If the United States determines that information provided by Settling Respondent is not materially accurate and complete, the Agreement, within the sole discretion of the United States, shall be null and void and the United States reserves all rights it may have.

VIII. UNITED STATES' COVENANT NOT TO SUE

28. Subject to the Reservation of Rights in Section IX of this Agreement, upon payment of the amount specified in Section IV (Payment) of this Agreement, the United States covenants not to sue or take any other civil or administrative action against Settling Respondent for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) with respect to the Existing Contamination. This covenant not to sue takes effect on the date the Settling Defendant acquires such Property. However, in the event that the City of Phoenix does not acquire the Property within eighteen (18) months of the effective date of this Agreement, this covenant not to sue does not apply to that Property. The Parties acknowledge and agree that this covenant has no effect on any liability Settling Respondent may have as a result of ownership of a portion of the Site as described in paragraphs 19 and 27 of this Agreement.

IX. RESERVATION OF RIGHTS

29(a). The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States reserves and the Agreement is without prejudice to all rights against Settling Respondent with respect to all other matters, including but not limited to, the following:

(1) claims based on a failure by Settling Respondent to meet a requirement of this Agreement, including but not limited to Section IV (Payment), Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), and Section XIV (Payment of Costs);

(2) any liability resulting from past or future releases of hazardous substances, pollutants or contaminants, at or from the Site caused or contributed to by Settling Respondent, its successors, assignees, lessees or sublessees;

(3) any liability resulting from exacerbation by Settling Respondent, its successors, assignees, lessees or sublessees, of Existing Contamination;

(4) any liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants, at the Site after the effective date of

this Agreement, not within the definition of Existing Contamination;

(5) criminal liability;

(6) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessment incurred by federal agencies other than EPA;

(7) liability for violations of local, State or federal law or regulations; and

(8) liability arising from Settling Defendant's ownership of a portion of the Site as described in paragraphs 19 and 27.

29(b). Notwithstanding the covenant not to sue set forth in Section VIII above or any other provision of this Agreement, the United States reserves its rights to respond to contamination, whether Existing Contamination or other contamination, at, or from the Property whenever response may be necessary to protect human health or the environment. Such response may include, but is not limited to, requiring if and as necessary that the owner(s) of the Property, whether Settling Respondent or its successors or assigns, implement the following Institutional Controls that EPA determines are necessary for achieving protection of human health, welfare, or the environment.

1) Securing the Property to prevent public access by means including, but not limited to, fencing and/or the use of security personnel;

(2) Deed restrictions to prevent or restrict use of groundwater underlying the Property.

(3) Deed restrictions to prevent use of the Property other than for aviation-related purposes.

30. With respect to any claim or cause of action asserted by the United States, the Settling Respondent shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

31. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any

person, firm, corporation or other entity not a party to this Agreement.

32. Nothing in this Agreement is intended to limit the right of EPA to undertake future response actions at the Site or to seek to compel parties other than the Settling Respondent to perform or pay for response actions at the Site or the Property.

Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA in exercising its authority under federal law. Settling Respondent acknowledges that it is purchasing Property where response actions may be required.

X. SETTLING RESPONDENT'S COVENANT NOT TO SUE

33. In consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, the Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the Property or this Agreement, including but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Property, or any claims arising out of response activities at the Property, including claims based on EPA's oversight of such activities or approval of plans for such activities.

Nothing in this paragraph shall be construed to impair any claims that the Settling Respondent could assert pursuant to 42 U.S.C. §9623 for qualified costs.

34. The Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of the Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XI. PARTIES BOUND/TRANSFER OF COVENANT

35. This Agreement shall apply to and be binding upon the United States and shall apply to and be binding on the Settling Respondent, its elected officials, officers, directors, employees, and agents. The United States' Covenant Not to Sue in Section VIII and Contribution Protection in Section VIII shall apply to Settling Respondent's elected officials, officers, directors, or employees, to the extent that the alleged liability of the elected official, officer, director, or employee is based on its status and in its capacity as an elected official, officer, director, or employee of Settling Respondent, and not to the extent that the alleged liability arose independently of the alleged liability of the Settling Respondent. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

36. No transferee of all or a portion of the Property shall have any right under this Agreement (except to the extent that paragraph 38 applies), including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection), unless:

(a) at least thirty (30) days before the transfer, the transferee shall have submitted to EPA an affidavit which identifies the transferee and the property to be transferred, describes the proposed transfer, and certifies that:

(1) the transferee has not caused or contributed to the release or threat of release of any amount of the Existing Contamination;

(2) the transferee's use of the property will not result in a release or threat of release of any hazardous substance;

(3) the transferee's use of the property will not cause or contribute to the migration or release of any Existing Contamination or any threat to human health or the environment caused by any such release or threat of release; and

(4) the person signing the affidavit is fully authorized to make the foregoing certifications and to legally bind the transferee;

(b) EPA has consented in writing to the transfer of the rights, benefits and obligations conferred under the

Agreement to the person taking possession of all or a portion of any of the Property. EPA will provide Settling Respondent with its determination within thirty (30) days of receipt of Settling Respondent's affidavit. Any failure by EPA to render a decision within thirty (30) days shall be construed as a denial; and

(c) Prior to or simultaneous with the transfer of all or a portion of the Property, the transferee shall consent in writing to be bound by and perform, from the date of transfer, all of the terms and obligations of the Agreement as though it were Settling Respondent. These terms and obligations include, but are not limited to, those set forth in Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), Section VII (Certification), Section IX (Reservation of Rights), Section X (Settling Respondent's Covenant Not to Sue), Section XI (Transfer of Covenant), Section XII (Disclaimer), Section XIII (Document Retention), Section XIV (Payment of Costs), Section XV (Notices), Section XVIII (Contribution Protection) of this Agreement.

If at any time, EPA determines that the transferee's affidavit is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the transferee, and the United States reserves all rights it may have against the transferee.

37. If all conditions of paragraph 36 have been met, upon transfer of ownership of any of the Property:

(a) Settling Respondent shall be released from the obligations set forth in paragraphs 23 and 25 (except for the first sentence of paragraph 25) (Access/Notice to Successors in Interest) of this Agreement; and

(b) EPA shall be released from its obligations to Settling Respondent (but not to transferee) under paragraph 23 of this Agreement.

This provision does not apply to any lease of the Property. Settling Respondent shall not be released from any other obligations set forth in this Agreement, except as EPA and Settling Respondent agree otherwise and modify this Agreement in writing.

38. Any lessee or sublessee (collectively "lessee") on the Property may obtain the rights and benefits established by this Agreement, including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection),

by providing to EPA, prior to the date of tenancy, the written certification set forth in Exhibit 8. However, if at any time EPA determines that the lessee's certification is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the lessee, and the United States reserves all rights it may have against the lessee. Any lessee that is unable to provide the written certification set forth in Exhibit 8 may obtain the rights and benefits of this Agreement only by complying with the transfer requirements of paragraph 36. Whenever a lessee who has obtained the rights and benefits of this Agreement pursuant to this paragraph or paragraph 36 vacates the Property, Settling Respondent shall provide EPA written notice of the vacancy within thirty (30) days of the date upon which the lessee vacates.

39. Settling Respondent agrees to pay the reasonable costs, including attorneys' fees, incurred by EPA to review any subsequent requests for consent to assign or transfer the rights, benefits and obligations hereunder.

XII. DISCLAIMER

40. This Agreement in no way constitutes a finding by EPA as to the risks to human health and the environment which may be posed by contamination at the Property or the Site nor constitutes any representation by EPA that the Property or the Site is fit for any particular purpose.

XIII. DOCUMENT RETENTION

41. The Settling Respondent agrees to retain and make available to EPA all business and operating records, contracts, Site studies and investigations, and documents relating to operations at the Property, for at least ten years, following the effective date of this Agreement unless otherwise agreed to in writing by the Parties. At the end of ten years, the Settling Respondent shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at the expense of EPA.

XIV. PAYMENT OF COSTS

42. If the Settling Respondent fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Payment) of this Agreement, it shall be liable for all litigation and other enforcement costs incurred under CERCLA by the United States to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

43. All notices to Settling Respondents should be sent to:

Cynthia Parker
Environmental Coordinator
City of Phoenix Aviation Department
Phoenix Sky Harbor International Airport
3400 Sky Harbor Boulevard
Phoenix, Arizona 85034

With a copy to:

David Krietor
Aviation Director
City of Phoenix Aviation Department
Phoenix Sky Harbor International Airport
3400 Sky Harbor Boulevard
Phoenix, Arizona 85034

And:

Craig J. Reece
Assistant City Attorney
City of Phoenix Law Department
200 West Washington Street, Suite 1300
Phoenix, Arizona 85003-1611

All notices to the United States should be sent to:

Allyn L. Stern
Office of Regional Counsel
U.S. EPA
75 Hawthorne Street (ORC-3)
San Francisco, California 94105

with a copy to:

Nadia Hollan
Superfund Remedial Project Manager
U.S. EPA
75 Hawthorne Street (SFD-8-2)
San Francisco, California 94105

Any party may change the name or address to which it receives notices by delivering written notice to the parties named herein.

XVI. EFFECTIVE DATE

44. The effective date of this Agreement shall be the date upon which EPA issues written notice to the Settling Respondent that EPA has fully executed the Agreement after review of and response to any public comments received. If Settling Respondent does not acquire the Property within eighteen (18) months of the effective date, this Agreement is not effective as to the Property.

XVII. TERMINATION

45. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the party requesting such termination receives written agreement from the other party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

46. With regard to claims for contribution against Settling Respondent, the Parties hereto agree that the Settling Respondent is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Agreement. The matters addressed in this Agreement are Settling Respondent's liability arising from its ownership of the Property, and all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person with respect to the Existing Contamination.

47. The Settling Respondent agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement it will notify the United States in writing no later than 60 days prior to the initiation of such suit or claim.

48. The Settling Respondent also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Agreement it will notify in writing the United States within 10 days of service of the complaint on Settling Respondent.

XIX. EXHIBITS

49. Exhibit 1 shall mean the Title Reports describing the Property that are the subject of this Agreement.

50. Exhibit 2 shall mean the map depicting the Site.

51. Exhibit 3 shall mean the form certification letter, "Lessee's Certification of Compliance with Agreement and Covenant Not To Sue".

XXI. PUBLIC COMMENT

52. This Agreement shall be subject to a thirty-day public comment period, after which EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

53. The Parties acknowledge Arizona Revised Statutes Annotated Section 38-511.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IX

BY: _____

Keith Takata
Superfund Division Director

Date

IT IS SO AGREED:

UNITED STATES DEPARTMENT OF JUSTICE

BY: _____

Walker Smith
Principal Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

Date

IT IS SO AGREED:

CITY OF PHOENIX, a municipal corporation
FRANK A. FAIRBANKS, City Manager

BY: _____

DAVID KRIETOR
Aviation Director

Date

ATTEST:

BY: _____

City Clerk

APPROVED AS TO FORM:

BY: _____

City Attorney

C:\NrPortbl\civil\LGUINN\130159_1.DOC

**REPORT FOR:
PURCHASE****CITY OF PHOENIX, ARIZONA
REAL ESTATE DIVISION
TITLE REPORT**

COSTCENTER: AV01000097-L

Q.S. NO.	COUNTY ASSESSOR'S NO.	PROJECT: AVIATION	PARCEL NO.
10-37	124-08-076C	4141 & 4143 East Washington Street	

LEGAL DESCRIPTION:

See attached page 2.

REQUIREMENTS FOR VESTING TITLE IN THE CITY OF PHOENIX:

1. Warranty Deed from: Paul W. Grimmert, Jr. and _____, Trustees / Successor Trustees of the Grimmert Family Trust dated December 20, 1991, as Owner by Quit-Claim Deed dated December 20, 1991, recorded December 24, 1991 in Document No. 1991-603968. (PART NO. 1)
2. Warranty Deed from: Paul W. Grimmert, a widower, as Owner by Joint Tenancy Deed dated January 16, 1969, recorded January 15, 1969 in Docket 7433, page 124 and Certificate of Death dated March 29, 2001, recorded April 2, 2001 in Document No. 2001-264408. (PART NO. 2)

Appropriate instruments from any parties holding unrecorded interests in the property as may be discovered by the negotiator and reported to Title Section.

SUBJECT TO:

1. Reservation contained in United States of America Patent recorded in Book 28 of Deeds, page 119.
2. Declaration of Restrictions recorded in Docket 154, page 464.
3. Taxes for the second half of 2001, a lien now payable, in the current amount of \$2,371.34.
4. Taxes for the year 2002, a lien not yet due and payable.

ADDRESSES:

1. Paul W. Grimmert, Jr., Trustee - 5426 E. Vernon Avenue Phoenix, 85008
2. Paul W. Grimmert - 5426 E. Vernon Avenue Phoenix, 85008

REMARKS:

1. Taxes searched through April 5, 2002.
2. Pursuant to A.R.S. section 33-401, the names and addresses of the Beneficiaries of the above cited trust are disclosed in Document No. 603968.
3. Certificate of Death for Fannie M. Grimmert recorded in Document No. 2001-264408. No Waiver of Estate Tax was found of record.

EFFECTIVE DATE: April 10, 2002
PREPARED BY: M. Earl Lewis, Jr.

LEGAL DESCRIPTION:

PART NO. 1:

Lots 7, 8, 9 and 10, Block 7, PORTLAND TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 33;
TOGETHER WITH that part abandoned in Docket 2766, page 355, as vests by law and that part abandoned in Docket 7492, page 546, as vests by law;
EXCEPT Document No. 1984-39210.

PART NO. 2:

Lots 11 and 12, Block 7, PORTLAND TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona in Book 11 of Maps page 33;
TOGETHER WITH that part abandoned in Docket 2766, page 355, as vests by law and that part abandoned in Docket 7492, page 546, as vests by law;
EXCEPT Docket 2039, page 559; and
EXCEPT Docket 7492, page 534; and
EXCEPT Document No. 1984-39210.

EXHIBIT 2

MOTOROLA 52nd STREET SUPERFUND SITE

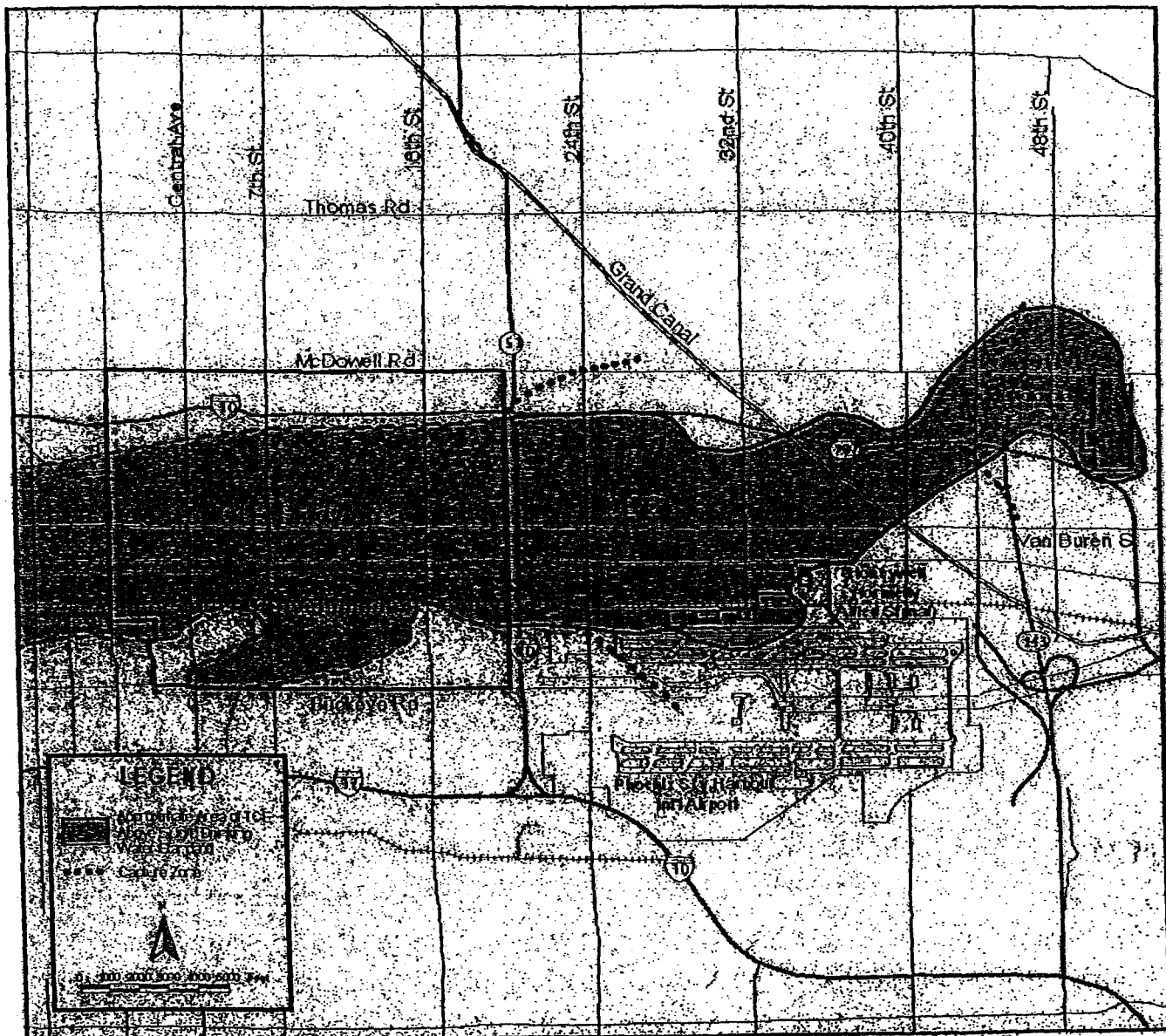


Exhibit 3

**LESSEE'S CERTIFICATION OF COMPLIANCE
WITH AGREEMENT AND COVENANT NOT TO SUE**

CERTIFIED MAIL
Allyn L. Stern
Senior Counsel (ORC-3)
U.S. EPA
75 Hawthorne Street
San Francisco, California 94105

Re: Lessee's Certification of Compliance with Agreement and
Covenant Not to Sue, Docket No.
Operable Unit Two, Motorola 52nd Street Superfund Site

In accordance with paragraph 38 of the Agreement and
Covenant Not to Sue, Docket No. ("Agreement"), the undersigned
party ("Lessee") hereby notifies the U.S. Environmental
Protection Agency ("EPA") that it intends to lease all or a
portion of real property that is the subject of the Agreement.
The Agreement was originally entered into by and between EPA and
the City of Phoenix and concerns the real property located at
[Identify address/property description of real property] (the
"Property").

[Insert a paragraph which identifies: (1) the parties to the
lease; (2) a description of the portion of the Property to be
leased; and (3) the effective date and term of the lease.]

Lessee acknowledges that it has reviewed the Agreement and
any modifications and notices thereto. Pursuant to paragraph 38
of Section XI of the Agreement (Parties Bound/Transfer of
Covenant), Lessee hereby agrees and certifies that:

(1) Lessee has not caused or contributed to the release or
threat of release of any amount of the Existing
Contamination;

(2) Lessee will not, over the course of any 12 month period,
generate, use or store any hazardous substance or extremely
hazardous substance, as defined in 42 U.S.C. §§ 9601(14), in
an amount equal to or exceeding its reportable quantity as
established by 42 U.S.C. §§ 9602(a), at the Property;

(3) Lessee will not use the Property in any manner that
could cause or contribute to the migration or release of any
Existing Contamination;

(4) Lessee will permit access to the Property as set forth in paragraph 23 of the Agreement;

(5) Lessee will exercise due care at the Site and cooperate with EPA as set forth in paragraph 27 of the Agreement; and

(6) Lessee will not interfere with response actions taken on or around the Property;

(7) Lessee will be bound by and subject to the terms of the Agreement, and will act consistent with the terms of the Agreement.

Upon submission of this letter to EPA, Lessee shall have the rights and benefits set forth in Sections VIII (United States' Covenant Not to Sue) and XVII (Contribution Protection) of the Agreement with respect to the leased portion of the Property. However, if at any time EPA determines that Lessee's certification is materially inaccurate or incomplete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to Lessee, and the United States reserves all rights it may have against Lessee.

Notices and submissions required under the Agreement that affect Lessee's interest in the Property shall be sent to the following contact persons for Lessee:

[Insert Contact Information]

So Acknowledged and Agreed:

Name and Title

Name of Business

Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

IN THE MATTER OF:)	
Motorola 52 nd St.)	
Superfund Site)	DOCKET NO. 2000 <u>2002-0607</u>
)	
UNDER THE AUTHORITY OF THE)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL)	NOT TO SUE
RESPONSE, COMPENSATION, AND)	CITY OF PHOENIX
LIABILITY ACT OF 1980,)	
42 U.S.C. § 9601, <u>et seq.</u> ,)	
as amended.)	

I. INTRODUCTION

1. This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States on behalf of the Environmental Protection Agency ("EPA") and the City of Phoenix ("Settling Respondent"). The United States and Settling Respondent are collectively referred to herein as the "Parties".

2. This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq. and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

3. The Settling Respondent is a municipal corporation of the State of Arizona with responsibility for operation and management of the Phoenix Sky Harbor International Airport ("Sky Harbor"). The principal offices for Sky Harbor are currently located at 3400 Sky Harbor Boulevard, Phoenix, AZ 85034. Sky Harbor is located adjacent to the southern boundary of the Motorola 52nd Street Superfund Site in Phoenix, AZ and is not currently part of the Site. Settling Respondent plans to acquire a total of 400 acres of property as part of an expansion plan for Sky Harbor. Settling Respondent plans to acquire this property in phases and use this property for aviation-related uses, including, but not limited to, airfields, terminals, parking operations, air cargo operations, car rental operations, airport administrative functions and aircraft maintenance operations. This Agreement covers approximately ~~22~~10.5 acres of land.

4. This Agreement applies only to the ~~six~~two (~~6~~2) contiguous parcels of property identified in ~~4a~~4f below

(~~some~~both of which include sub-parcels as indicated~~are owned~~ by their legal descriptions~~.the same Seller~~) . Settling Respondent has entered or will enter into a conditional purchase agreement with the owners of ~~five of these six~~two parcels for the City of Phoenix, as buyer, to purchase these properties. ~~The City of Phoenix will acquire the remaining one parcel by condemnation~~this property. These ~~six~~two parcels may be collectively referred to herein as "PropertiesProperty." Each parcel is located within the area encompassed by Operable Unit Two of the Motorola 52nd Street Superfund Site and are more specifically described in ~~Exhibits 1~~Exhibit — 6.1.

a. Paul W. Grimmer, Jr. as Successor Trustee of the Grimmer Family Trust, and Individually, (collectively, "Seller") located at 4141 and 4143 E. Washington Street, Phoenix, Arizona, as described in Exhibit 1 of this Agreement, consisting of the 0.5 acre parcel currently in use by two (2) businesses, Supreme Auto Care Center and Drive Line Services of Phoenix, Inc. Located on the Property are two (2) buildings totalling approximately 6,679 sq. ft.

5. The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII, VIII, IX, and X, the potential liability of the Settling Respondent for the Existing Contamination at the PropertiesProperty which would otherwise result from Settling Respondent becoming the owner of the PropertiesProperty.

6. The Parties agree that the Settling Respondent's entry into this Agreement, and the actions undertaken by the Settling Respondent in accordance with the Agreement, do not constitute an admission of any liability by the Settling Respondent.

7. The resolution of this potential liability, in exchange for provision by the Settling Respondent to EPA of a substantial benefit, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

8. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of

the United States.

9. "Existing Contamination" shall mean:

a. any hazardous substances, pollutants or contaminants present or existing on or under the ~~Properties~~Property as of the effective date of this Agreement;

b. any hazardous substances, pollutants or contaminants that migrated from the ~~Properties~~Property prior to the effective date of this Agreement; and

c. any hazardous substances, pollutants or contaminants presently at the Site that migrate onto or under or from the ~~Properties~~Property after the effective date of this Agreement.

10. "Institutional Controls" shall mean the covenants, easements, restrictions, conditions, and other equivalent requirements and controls authorized by EPA with respect to Existing Contamination for one or more of the following purposes: (1) to restrict the use of groundwater; (2) to limit human or animal exposure to Existing Contamination; (3) to ensure that there is no interference with the performance, operation, and maintenance of any selected response action; and (4) to ensure the integrity and effectiveness of any selected response action.

11. "Parties" shall mean the United States on behalf of EPA and the Settling Respondent.

12. ~~"Property or Properties", depending on the context,~~ shall mean that portion of the Site, encompassing approximately ~~22.10.5 non-contiguous acres, which is described in Exhibits~~Exhibit 1-6 of this Agreement, ~~or an individual parcel that is listed in paragraph 4 of this Agreement above.~~

~~13.~~11. "Settling Respondent" shall mean the City of Phoenix.

14. "Site" shall mean the Motorola 52nd Street Superfund Site in Phoenix, Arizona. The Site shall include the ~~Properties~~Property, and all areas to which hazardous substances and/or pollutants or contaminants that may have been released from the ~~Properties~~Property have come to be located.

15. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

16. The Settling Respondent is a municipal corporation of the State of Arizona and the sponsor of Sky Harbor, which is subject to federal laws and grant assurances that pertain to the use of the ~~Properties~~Property and Sky Harbor. The Settling Respondent is the buyer in the ~~six~~ Contingent Purchase ~~Agreements~~Agreement for the ~~Properties~~Property located within the Site. The Contingent Purchase ~~Agreements~~Agreement for the ~~Properties~~ are at different stages of completion Property has an extended Closing Date, and the ~~Properties~~Property ~~are~~is to be used for public purposes; therefore, EPA is willing to grant an extended period of time, up to eighteen (18) months, for the acquisition of the ~~Properties~~Property by Settling Respondent in order that the ~~Properties~~Property may be subject to this Agreement.

17. ~~The Properties are six (6) non-~~Property consists of two continuous parcels located within the Site in an area currently consisting of commercial, industrial and residential uses.

18. The Settling Respondent has informed EPA that the ~~Properties are~~Property is to be acquired for the purpose of expanding Sky Harbor. The ~~Properties~~Property will be used for aviation-related purposes, including but not limited to airfields, terminals, parking operations, air cargo operations, car rental operations, airport administrative functions and aircraft maintenance operations.

19. The Settling Respondent is a potentially responsible party at the Site due to its ownership of a portion of the Site. Settling Respondent has resolved its liability for EPA costs incurred at the Site and for a portion of EPA costs to be incurred at the Site in a Consent Decree entered in the United States District Court for the District of Arizona on November 29, 2000. The Parties acknowledge and agree that this Agreement and the Covenant Not to Sue in Section VIII hereof have no effect on Settling Respondent's status as a potentially responsible party due to its ownership of a portion of the Site (described in paragraph 27(b)).

20. The Settling Respondent represents, and for the purposes of this Agreement, EPA relies on those representations, that Settling Respondent's involvement with the ~~Properties~~Property has been limited to inspecting, auditing and performing environmental audits and other due diligence of the ~~Properties~~Property in connection with Settling Respondent's intended purchase of the ~~Properties~~Property.

IV. PAYMENT

21. In consideration of and in exchange for the United

States' Covenant Not to Sue in Section VIII herein, Settling Respondent agrees to pay to EPA the sum of ~~One Hundred Ten Thousand dollars~~Dollars (\$~~100,000~~10,000), within thirty (30) days of the effective date of this Agreement. The Settling Respondent shall make all payments required by this Agreement in the form of a certified check or checks made payable to "EPA Hazardous Substance Superfund," referencing the EPA Region 9, EPA Docket number ~~2000~~2002-0607 and EPA Site Number 09BE, DOJ case number 90-11-3-06000/1 and name and address of Settling Respondent. Payment shall be sent to:

U.S. EPA
Region IX, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

Notice of payment (including a copy of the check and transmittal letter) shall be sent to those persons listed in Section XV (Notices and Submissions), and to:

Catherine Shen
Financial Management Specialist (PMD-6)
U.S. EPA Region IX
75 Hawthorne Street
San Francisco, California 94105

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Attn: DJ # 90-11-3-06000/1

22. Amounts due and owing pursuant to the terms of this Agreement but not paid in accordance with the terms of this Agreement shall accrue interest at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), compounded on an annual basis.

V. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

23(a). Commencing upon the date that it acquires title to ~~any or all of the Properties~~Property, Settling Respondent agrees to provide to EPA and its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight, an irrevocable right of access at all reasonable times to the ~~Properties~~Property and to any other property to which access is reasonably required under CERCLA and RCRA for the implementation of response actions at the Site, to the extent access to such other property is controlled by the

Settling Respondent, for the purposes of performing and overseeing response actions at the ~~Properties~~Property and/or the Site under federal law. EPA agrees to provide reasonable notice to the Settling Respondent of the timing of any response actions to be undertaken at the ~~Properties~~Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, ("RCRA") et. seq., and any other applicable statute or regulation, including any amendments thereto.

23(b). The Parties acknowledge that the Settling Respondent is purchasing the ~~Properties~~Property for future aviation-related uses and that FAA approval is required for construction and many other activities at the airport. Federal statutes, regulations and other authorities that will be applicable to the use and management of the ~~Properties~~Property include, but are not limited to, 49 U.S.C.A. Sections 47107(a), 47101(g) and 40113; ~~1449~~ C.F.R. Part ~~107~~1500 "Airport Civil Aviation Security Rules"; 14 C.F.R. Part 139, "Airport Certification" including the Airport Certification Manual promulgated under 14 C.F.R. Subpart C; 14 C.F.R. Part 77, "Objects Affecting Navigable Airspace"; FAA Order 5100.38(A) Grants Manual, including Part V, Grant Assurances; and FAA Order 5190.6(A), Airport Operations Manual.

24. ~~As to each of the six Properties, within~~Within 15 days after Settling Respondent's acquisition of fee title to the Property, Settling Respondent shall submit to EPA for review and approval a notice to be filed with the Recorder's Office, Maricopa County, State of Arizona, which shall provide notice to all successors-in-title that the ~~Properties~~Property (as identified in the ~~relevant Exhibit 1-6~~) ~~are~~is part of the Site, that EPA selected an interim groundwater remedy for the Site in July, 1994, and that the potentially responsible parties are subject to a U.S. EPA Administrative Order for Remedial Action Docket No. 98-15, requiring construction and two years of operation & maintenance of the OU2 remedy. Such notices shall identify the name and docket number of the case, and the date the Administrative Order was signed by EPA. The Settling Respondent shall record the notice(s) within 10 days of EPA's approval of the notice(s). The Settling Respondent shall provide EPA with a certified copy of the recorded notice(s) within 10 days of recording such notice(s).

25. The Settling Respondent, to the extent that it has legal authority to do so, shall ensure that assignees, successors in interest, lessees, and sublessees of each of the ~~Properties~~Property shall provide the same access and cooperation, including any Institutional Controls required for

the ~~individual Properties~~Property. The Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on each of the ~~Properties~~Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of ~~any of the Properties~~Property or an interest in ~~any of the Properties~~Property are consistent with this Section, and Section XI (Parties Bound/Transfer of Covenant), of the Agreement.

VI. DUE CARE/COOPERATION

26. The Settling Respondent shall exercise due care at the ~~Properties~~Property with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and regulations. The Settling Respondent recognizes that the implementation of response actions at the Site may interfere with the Settling Respondent's use of the ~~Properties~~Property, and may require closure of its operations on the ~~Properties~~Property or a part thereof. The Settling Respondent agrees to cooperate fully with EPA in the implementation of response actions at the ~~Properties~~Property and further agrees not to interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the Settling Respondent's operations by such entry and response. In the event the Settling Respondent becomes aware of any action or occurrence which causes or threatens a release of hazardous substances, pollutants or contaminants at or from the ~~Properties~~Property that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all necessary and appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. §9603, or any other law, immediately notify EPA of such release or threatened release.

VII. CERTIFICATION

27(a). By entering into this agreement, the Settling Respondent certifies that to the best of its knowledge and belief it has fully and accurately disclosed to EPA all information known to Settling Respondent and all information in the possession or control of its elected officials, officers, directors, employees, contractors and agents which relates in any way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the ~~Properties~~Property and to its qualification for this Agreement. As Phase II site investigation reports are completed, City will provide them to the EPA.

27(b). The Settling Respondent may be liable under CERCLA due to its ownership of the Honeywell International facility located on East Air Lane, Phoenix, Arizona as described in City Leases numbered 2190 and 3293. Aside from any liability that Settling Respondent may have incurred by reason of its ownership of the aforementioned Honeywell International facility, Settling Respondent certifies that, to the best of its knowledge and belief it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Site. If the United States determines that information provided by Settling Respondent is not materially accurate and complete, the Agreement, within the sole discretion of the United States, shall be null and void and the United States reserves all rights it may have.

VIII. UNITED STATES' COVENANT NOT TO SUE

28. Subject to the Reservation of Rights in Section IX of this Agreement, upon payment of the amount specified in Section IV (Payment) of this Agreement, the United States covenants not to sue or take any other civil or administrative action against Settling Respondent for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) with respect to the Existing Contamination. ~~As to each of the Properties covered by this Agreement, this~~ This covenant not to sue takes effect on the date the Settling Defendant acquires such Property. However, in the event that the City of Phoenix does not acquire ~~any one of the Properties~~ Property within eighteen (18) months of the effective date of this Agreement, this covenant not to sue does not apply to that Property. The Parties acknowledge and agree that this covenant has no effect on any liability Settling Respondent may have as a result of ownership of a portion of the Site as described in paragraphs 19 and 27 of this Agreement.

IX. RESERVATION OF RIGHTS

29(a). The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States reserves and the Agreement is without prejudice to all rights against Settling Respondent with respect to all other matters, including but not limited to, the following:

- (1) claims based on a failure by Settling Respondent to meet a requirement of this Agreement, including but not limited to Section IV (Payment), Section V (Access/Notice to Successors in Interest), Section VI

(Due Care/Cooperation), and Section XIV (Payment of Costs);

(2) any liability resulting from past or future releases of hazardous substances, pollutants or contaminants, at or from the Site caused or contributed to by Settling Respondent, its successors, assignees, lessees or sublessees;

(3) any liability resulting from exacerbation by Settling Respondent, its successors, assignees, lessees or sublessees, of Existing Contamination;

(4) any liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants, at the Site after the effective date of this Agreement, not within the definition of Existing Contamination;

(5) criminal liability;

(6) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessment incurred by federal agencies other than EPA;

(7) liability for violations of local, State or federal law or regulations; and

(8) liability arising from Settling Defendant's ownership of a portion of the Site as described in paragraphs 19 and 27.

29(b). Notwithstanding the covenant not to sue set forth in Section VIII above or any other provision of this Agreement, the United States reserves its rights to respond to contamination, whether Existing Contamination or other contamination, at, or from the ~~Properties~~Property whenever response may be necessary to protect human health or the environment. Such response may include, but is not limited to, requiring if and as necessary that the owner(s) of the ~~Properties~~Property, whether Settling Respondent or its successors or assigns, implement the following Institutional Controls that EPA determines are necessary for achieving protection of human health, welfare, or the environment.

1) Securing the ~~Properties~~Property to prevent public access by means including, but not limited to, fencing and/or the use of security personnel;

(2) Deed restrictions to prevent or restrict use of groundwater underlying the ~~Properties~~Property.

(3) Deed restrictions to prevent use of the ~~Properties~~Property other than for aviation-related purposes.

30. With respect to any claim or cause of action asserted by the United States, the Settling Respondent shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

31. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation or other entity not a party to this Agreement.

32. Nothing in this Agreement is intended to limit the right of EPA to undertake future response actions at the Site or to seek to compel parties other than the Settling Respondent to perform or pay for response actions at the Site or the ~~Properties~~Property. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA in exercising its authority under federal law. Settling Respondent acknowledges that it is purchasing ~~Properties~~Property where response actions may be required.

X. SETTLING RESPONDENT'S COVENANT NOT TO SUE

33. In consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, the Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the ~~Properties~~Property or this Agreement, including but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the ~~Properties~~Property, or any claims arising out of response activities at the ~~Properties~~Property, including claims based on EPA's oversight of such activities or approval of plans for such activities.

Nothing in this paragraph shall be construed to impair any claims that the Settling Respondent could assert pursuant to 42 U.S.C. §9623 for qualified costs.

34. The Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of the Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XI. PARTIES BOUND/TRANSFER OF COVENANT

35. This Agreement shall apply to and be binding upon the United States and shall apply to and be binding on the Settling Respondent, its elected officials, officers, directors, employees, and agents. The United States' Covenant Not to Sue in Section VIII and Contribution Protection in Section VIII shall apply to Settling Respondent's elected officials, officers, directors, or employees, to the extent that the alleged liability of the elected official, officer, director, or employee is based on its status and in its capacity as an elected official, officer, director, or employee of Settling Respondent, and not to the extent that the alleged liability arose independently of the alleged liability of the Settling Respondent. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

36. No transferee of all or a portion of ~~any of the Properties~~Property shall have any right under this Agreement (except to the extent that paragraph 38 applies), including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection), unless:

(a) at least thirty (30) days before the transfer, the transferee shall have submitted to EPA an affidavit which identifies the transferee and the property to be transferred, describes the proposed transfer, and certifies that:

(1) the transferee has not caused or contributed to the release or threat of release of any amount of the Existing Contamination;

(2) the transferee's use of the property will not result in a release or threat of release of any hazardous substance;

(3) the transferee's use of the property will not cause or contribute to the migration or release of any Existing Contamination or any threat to human health or the environment caused by any such release or threat of release; and

(4) the person signing the affidavit is fully authorized to make the foregoing certifications and to legally bind the transferee;

(b) EPA has consented in writing to the transfer of the rights, benefits and obligations conferred under the Agreement to the person taking possession of all or a portion of any of the ~~Properties~~Property. EPA will provide Settling Respondent with its determination within thirty (30) days of receipt of Settling Respondent's affidavit. Any failure by EPA to render a decision within thirty (30) days shall be construed as a denial; and

(c) Prior to or simultaneous with the transfer of all or a portion of ~~any of the Properties~~Property, the transferee shall consent in writing to be bound by and perform, from the date of transfer, all of the terms and obligations of the Agreement as though it were Settling Respondent. These terms and obligations include, but are not limited to, those set forth in Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), Section VII (Certification), Section IX (Reservation of Rights), Section X (Settling Respondent's Covenant Not to Sue), Section XI (Transfer of Covenant), Section XII (Disclaimer), Section XIII (Document Retention), Section XIV (Payment of Costs), Section XV (Notices), Section XVIII (Contribution Protection) of this Agreement.

If at any time, EPA determines that the transferee's affidavit is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the transferee, and the United States reserves all rights it may have against the transferee.

37. If all conditions of paragraph 36 have been met, upon transfer of ownership of any of the ~~Properties~~Property:

(a) Settling Respondent shall be released from the obligations set forth in paragraphs 23 and 25 (except for

the first sentence of paragraph 25) (Access/Notice to Successors in Interest) of this Agreement; and

(b) EPA shall be released from its obligations to Settling Respondent (but not to transferee) under paragraph 23 of this Agreement.

This provision does not apply to any lease of ~~any of the Properties~~Property. Settling Respondent shall not be released from any other obligations set forth in this Agreement, except as EPA and Settling Respondent agree otherwise and modify this Agreement in writing.

38. Any lessee or sublessee (collectively "lessee") on ~~any of the Properties~~Property may obtain the rights and benefits established by this Agreement, including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection), by providing to EPA, prior to the date of tenancy, the written certification set forth in Exhibit 8. However, if at any time EPA determines that the lessee's certification is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the lessee, and the United States reserves all rights it may have against the lessee. Any lessee that is unable to provide the written certification set forth in Exhibit 8 may obtain the rights and benefits of this Agreement only by complying with the transfer requirements of paragraph 36. Whenever a lessee who has obtained the rights and benefits of this Agreement pursuant to this paragraph or paragraph 36 vacates ~~any of the Properties~~Property, Settling Respondent shall provide EPA written notice of the vacancy within thirty (30) days of the date upon which the lessee vacates.

39. Settling Respondent agrees to pay the reasonable costs, including attorneys' fees, incurred by EPA to review any subsequent requests for consent to assign or transfer the rights, benefits and obligations hereunder.

XII. DISCLAIMER

40. This Agreement in no way constitutes a finding by EPA as to the risks to human health and the environment which may be posed by contamination at the Property or the Site nor constitutes any representation by EPA that the ~~Properties~~Property or the Site is fit for any particular purpose.

XIII. DOCUMENT RETENTION

41. The Settling Respondent agrees to retain and make available to EPA all business and operating records, contracts, Site studies and investigations, and documents relating to operations at the ~~Properties~~Property, for at least ten years, following the effective date of this Agreement unless otherwise agreed to in writing by the Parties. At the end of ten years, the Settling Respondent shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at the expense of EPA.

XIV. PAYMENT OF COSTS

42. If the Settling Respondent fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Payment) of this Agreement, it shall be liable for all litigation and other enforcement costs incurred under CERCLA by the United States to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

43. All notices to Settling Respondents should be sent to:

Cynthia Parker
Environmental Coordinator
City of Phoenix Aviation Department
Phoenix Sky Harbor International Airport
3400 Sky Harbor Boulevard
Phoenix, Arizona 85034

With a copy to:

David Krietor
Aviation Director
City of Phoenix Aviation Department
Phoenix Sky Harbor International Airport
3400 Sky Harbor Boulevard
Phoenix, Arizona 85034

And:

Craig J. Reece
Assistant City Attorney
City of Phoenix Law Department
200 West Washington Street, Suite 1300
Phoenix, Arizona 85003-1611

All notices to the United States should be sent to:

Allyn L. Stern
Office of Regional Counsel
U.S. EPA
75 Hawthorne Street (ORC-3)
San Francisco, California 94105

with a copy to:

Nadia Hollan
Superfund Remedial Project Manager
U.S. EPA
75 Hawthorne Street (SFD-8-2)
San Francisco, California 94105

Any party may change the name or address to which it receives notices by delivering written notice to the parties named herein.

XVI. EFFECTIVE DATE

44. The effective date of this Agreement shall be the date upon which EPA issues written notice to the Settling Respondent that EPA has fully executed the Agreement after review of and response to any public comments received. If Settling Respondent does not acquire ~~all of the Properties covered by this Agreement~~Property within eighteen (18) months of the effective date, this Agreement is not effective as to ~~any unacquired property~~the Property.

XVII. TERMINATION

45. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the party requesting such termination receives written agreement from the other party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

46. With regard to claims for contribution against Settling Respondent, the Parties hereto agree that the Settling Respondent is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Agreement. The matters addressed in this Agreement are Settling Respondent's liability arising from its ownership of the ~~Properties~~Property, and all response actions

taken or to be taken and response costs incurred or to be incurred by the United States or any other person with respect to the Existing Contamination.

47. The Settling Respondent agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement it will notify the United States in writing no later than 60 days prior to the initiation of such suit or claim.

48. The Settling Respondent also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Agreement it will notify in writing the United States within 10 days of service of the complaint on Settling Respondent.

XIX. EXHIBITS

49. ~~Exhibits~~Exhibit 1-6 shall mean the Title Reports describing ~~each of the Properties~~Property that are the subject of this Agreement.

50. Exhibit 72 shall mean the map depicting the Site.

51. Exhibit 83 shall mean the form certification letter, "Lessee's Certification of Compliance with Agreement and Covenant Not To Sue".

XXI. PUBLIC COMMENT

52. This Agreement shall be subject to a thirty-day public comment period, after which EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

53. The Parties acknowledge Arizona Revised Statutes Annotated Section 38-511.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IX

BY: _____

Keith Takata
Superfund Division Director

Date

IT IS SO AGREED:

UNITED STATES DEPARTMENT OF JUSTICE

BY: _____

Walker Smith
Principal Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

Date

IT IS SO AGREED:

CITY OF PHOENIX, a municipal corporation
FRANK A. FAIRBANKS, City Manager

BY: _____

DAVID KRIETOR
Aviation Director

Date

ATTEST:

BY: _____

City Clerk

APPROVED AS TO FORM:

BY: _____

City Attorney

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Exhibit 83

**LESSEE'S CERTIFICATION OF COMPLIANCE
WITH AGREEMENT AND COVENANT NOT TO SUE**

CERTIFIED MAIL

Allyn L. Stern
Senior Counsel (ORC-3)
U.S. EPA
75 Hawthorne Street
San Francisco, California 94105

Re: Lessee's Certification of Compliance with Agreement and
Covenant Not to Sue, Docket No.
Operable Unit Two, Motorola 52nd Street Superfund Site

In accordance with paragraph 38 of the Agreement and
Covenant Not to Sue, Docket No. ("Agreement"), the undersigned
party ("Lessee") hereby notifies the U.S. Environmental
Protection Agency ("EPA") that it intends to lease all or a
portion of real property that is the subject of the Agreement.
The Agreement was originally entered into by and between EPA and
the City of Phoenix and concerns the real property located at
[Identify address/property description of real property] (the
"Property").

[Insert a paragraph which identifies: (1) the parties to the
lease; (2) a description of the portion of the ~~Properties~~Property
to be leased; and (3) the effective date and term of the lease.]

Lessee acknowledges that it has reviewed the Agreement and
any modifications and notices thereto. Pursuant to paragraph 38
of Section XI of the Agreement (Parties Bound/Transfer of
Covenant), Lessee hereby agrees and certifies that:

(1) Lessee has not caused or contributed to the release or
threat of release of any amount of the Existing
Contamination;

(2) Lessee will not, over the course of any 12 month period,
generate, use or store any hazardous substance or extremely
hazardous substance, as defined in 42 U.S.C. §§ 9601(14), in
an amount equal to or exceeding its reportable quantity as
established by 42 U.S.C. §§ 9602(a), at the Property;

(3) Lessee will not use the Property in any manner that
could cause or contribute to the migration or release of any
Existing Contamination;

(4) Lessee will permit access to the Property as set forth in paragraph 23 of the Agreement;

(5) Lessee will exercise due care at the Site and cooperate with EPA as set forth in paragraph 27 of the Agreement; and

(6) Lessee will not interfere with response actions taken on or around the Property;

(7) Lessee will be bound by and subject to the terms of the Agreement, and will act consistent with the terms of the Agreement.

Upon submission of this letter to EPA, Lessee shall have the rights and benefits set forth in Sections VIII (United States' Covenant Not to Sue) and XVII (Contribution Protection) of the Agreement with respect to the leased portion of the Property. However, if at any time EPA determines that Lessee's certification is materially inaccurate or incomplete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to Lessee, and the United States reserves all rights it may have against Lessee.

Notices and submissions required under the Agreement that affect Lessee's interest in the Property shall be sent to the following contact persons for Lessee:

[Insert Contact Information]

So Acknowledged and Agreed:

Name and Title

Name of Business

Date

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C:\NrPortbl\civil\LGUINN\130159_5.DOC Redline #3

Document comparison done by DeltaView on Monday, April 15, 2002 12:55:52

Input:	
Document 1	iManage://148.167.108.13/civil/130159/1
Document 2	iManage://148.167.108.13/civil/130159/2
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	105
Deletions	121
Moved from	0
Moved to	0
Format changed	0
Total changes	226

City of Phoenix
Sky Harbor International Airport
Voluntary Land Acquisition Program
REQUEST FOR PROSPECTIVE PURCHASER AGREEMENT

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- I. CHECKLIST
- II. PROPERTY DOCUMENTS
 - A. Paul W. Grimmatt, Jr., as Successor Trustee of the Grimmatt Family Trust dated December 20, 1991
 - 1. Property Information Table
 - 2. Preliminary Title Report
 - 3. Executed Conditional Purchase Agreement
 - 4. Proposed Amendment (Not Yet Executed)

**Checklist of documents for Prospective Purchaser Packet:
City of Phoenix Voluntary Acquisition Program
North of Phoenix Sky Harbor International Airport—April 2002**

1. Provide your name, address, telephone number, and if requested, counsel's contact information.

Paul Blue
Deputy Director
Business & Properties
City of Phoenix
Aviation Department
3400 E. Sky Harbor Blvd.
Phoenix, AZ 85034-4420
Phone: (602)273-2112
Fax: (602)273-4083

Cynthia Parker
Environmental Coordinator
City of Phoenix
Aviation Department
3400 E. Sky Harbor Blvd.
Phoenix, AZ 85034-4420
Phone: (602)273-2730
Fax: (602)273-4578

Represented by:

Craig Reece
Assistant City Attorney
200 W. Washington St.
Phoenix, AZ 85003-1611
Phone: (602)495-5879
Fax: (602)534-3575

Phyllis R. Hughes
Assistant City Attorney
200 W. Washington St.
Phoenix, AZ 85003-1611
Phone: (602)273-4012
Fax: (602)273-4580

2. Describe the real property to be acquired and state whether it is the same property that has been, is being, or will be addressed by the Superfund response, or a smaller (or larger) parcel. (If known, please provide the CERCLIS database identification number for the site.)

See attached property information tables for pertinent information on each parcel.

None of the parcels are addressed by the Superfund response nor are any listed in the CERCLIS database.

3. Include copies of any environmental studies done on the property.

The City of Phoenix has submitted the Phase I study on the property. A Phase II environmental assessment will also be performed, and the modified Scope of Work for the Phase II study is attached to this Checklist.

4. Describe the proposed use for the property including whether there will be a new use or continuation of the present use. If wastes containing hazardous substances will be generated by the new or continued use, please describe what those wastes are, how they will be managed on site, and how such wastes will be ultimately disposed.

A. Future Uses

The area that is being acquired through the City of Phoenix Voluntary Land Acquisition Program encompasses nearly 400 acres from 24th Street to 44th Street, Air Lane to the south side of Washington Street. This area is directly north of the Phoenix Sky Harbor International Airport (PSHIA).

This area is being acquired for the future expansion of PSHIA. The “draft” master plan for the Airport has identified this area to be developed for future aviation related uses. These types of uses could include public parking, employee parking, air cargo operations, car rental operations and aircraft maintenance-type operations.

Today, the objective of the Voluntary Land Acquisition program is to purchase property within the target area for future airport uses and successfully relocate any tenant or occupant so that the improvements or structures can be demolished. Once all the improvements are demolished, the sites will be fenced off, gated and locked. These sites will remain vacant until the Airport is ready to develop them.

B. Waste Management

Wastes associated with the proposed Aviation-related uses that could be done in the target area could include equipment maintenance, fueling or painting wastes.

When the City maintains possession and occupancy of the property, all wastes will be managed according to the Resource Conservation and Recovery Act (RCRA), 40 CFR Parts 260-270, according to the City of Phoenix’s program. If property is leased by the City to a third party, compliance with RCRA standards is a lease condition.

5. Describe how the proposed use of the property may benefit the surrounding community through, for example, abating environmental concerns, creating jobs and increasing the local tax base.

PSHIA, as an economic development engine, generates more than \$5 billion of an economic impact to the Phoenix metropolitan area. As of calendar year end 1999, the airport and its tenants employed more than 24,000 people, while servicing more than 33 million passengers. According to Airport projections, the number of passengers will double over the next twenty years, creating a need to expand airport operations.

This will also require airport tenants to expand their operations in order to maintain services to the traveling public. However, today, certain operations are constrained, such as public parking facilities, air cargo facilities and car rental operations, because Sky Harbor lacks sufficient land to accommodate those uses.

Expanding PSHIA to the north will not only begin to alleviate some of its land constraint problems, but will permit redevelopment of this area, which has been unsuccessful in transitioning from residential to industrial use. Currently, the area contains 125 residents sandwiched between more than 250 industrial and commercial businesses. The majority of the homes are 50 years old and lie within the Airport flight patterns. The process of acquiring the industrial and commercial sites presents opportunities to identify potentially contaminated properties.

The City will perform a Phase II environmental assessment of the property after close of escrow. A copy of the prepared Scope of Work dated April 10, 2002 is attached to this checklist.

6. Indicate whether you plan to purchase or lease the property from the current owner, and summarize the terms of the agreement. Include the proposed purchase or lease price, and identify who will receive the proceeds of the sale or lease.

A table is attached hereto for the proposed acquisition, indicating the owner's name, property address, current use and appraised value. The property will be voluntarily purchased from current owner(s). A copy of the City's form of Conditional Purchase Agreement ("CPA"), and executed CPA for the property where escrow has opened is included with this package. The current owner of the property will receive the proceeds of the sale or condemnation.

7. If you plan to purchase the property and then lease it to another party, provide the name, contact information, and proposed use of the property by the anticipated lessee. also, describe any plans to resell the property, and if known, the name , contact information, and proposed use of the property by the subsequent purchaser.

The City plans to acquire the property by voluntary purchase. There are no plans to lease or resell this property to third parties at this time. The Voluntary Program requires the termination of the lease prior to closing escrow on this property, so that the Phase II environmental assessment may be performed.

In the current PPA packet, the following property will have no lessee.

A.	Seller:	Paul W. Grimmett, Jr., as Successor Trustee of the Grimmet Family Trust, and Individually
	Address:	4141 and 4143 E. Washington St. Phoenix, Arizona 85034

8. Describe any affiliations with the current or previous owner(s) and activities you have conducted at the site.

N/A

9. Indicate the value of the property after the anticipated cleanup is complete and include appropriate documentation such as an appraisal report.

The City of Phoenix and the seller obtain an independent, state certified appraiser to conduct an appraisal on the property to be acquired. All purchase offers presented to the sellers by the City are based on "fair market value." All commercial/industrial property sellers interested in selling their property initiate the appraisal process while the City initiates the environmental investigation process. The City conducts Phase I Assessments and Lead Based Paint/Asbestos Studies on all properties to be acquired. Therefore, the property value should be unaffected by any remedial actions performed by the City.

10. Describe any encumbrances on the property such as tax liens, mortgages, etc.

The City requires that all monetary encumbrances on the property such as tax liens or mortgages be removed by the Seller prior to Closing. The City takes the properties subject to other recorded matters such as utility easements.

11. Indicate the proposed date of property transfer and the date by which a PPA is needed.

The City and EPA have agreed that the City will submit groups of properties to EPA for a proposed PPA, and that transfers of title to the City will occur on a rolling basis, depending upon the date that escrow is opened, completion date of the Phase II studies and whether environmental remediation will be required. The City anticipates that close of escrow on this property will occur on or about January 2003, but must remain flexible regarding the closing date based on the seller's proposed construction schedule on his replacement property.

12. Provide any additional information or documentation that the requester believes may be useful to EPA in evaluating your request.

N/A

Property Owner Name	Paul W. Grimmett, Jr., as Successor Trustee of the Grimmett Family Trust dated December 20, 1991
Business Name(s)	Drive Line Services of Phoenix, Inc. (Owner) Supreme Auto Care Center (Tenant)
Property Owner Mailing Address	c/o Carlton Casler Casler Law Office 2415 E. Camelback Rd., Suite 700 Phoenix, AZ 85016
Property Tenant	Nick Tavilla, Owner of Supreme Auto Care Center
Property Address &	4141 & 4143 E. Washington St.
County Assessor's Number	124-08-076C
Legal Description	See attached
Current Land Use	Repair modification and manufacture of drive line assemblage (automobile repair) Site consists of 2 buildings totaling 6,679 s.f. of improvements on 0.50 acres, more or less
Appraised Value	Updated valuation dated: April, 2001 "As-Is" Market Value: \$500,000

GRIMMETT/DRIVE LINE SERVICES OF PHOENIX, INC.
4141 & 4143 E. Washington St.

LEGAL DESCRIPTION

Order No: 2113447 45

Lots 7, 8, 9, 10, 11 and 12, Block 7, PORTLAND TRACT, a subdivision recorded in Book 11 of Maps, page 33, and that part of the Abandonment of Grand Street set Forth in said plat and lying South of the Easterly prolongation of the North line of Lot 7, Block 7, in said Portland Tract, and West of the Northerly prolongation of the West line of Lot 12, Block 7 in said subivivision; and also the North half of an abandoned alley lying South of the South lines of Lots 7 through 12, inclusive, in Block 7 of Portland Tract and between the Southerly prolongation of the West line of Lot 7, and the Southerly prolongation of the East line of said Lot 12;

EXCEPT that part of Grand Stree,t as shown on the plat of Portland Tract, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 11 of Maps, page 33, now abandoned, described as follows:

Commencing at the intersection of the Easterly prolongation of the North line of Lot 7, Block 7 of said Portland Tract with the Northerly prolongation of the west line of Lot 12 in said Block 7;

thence Southerly along said Northerly prolongation a distance of 10 feet to the Point of Beginning;

thence continuing Southerly along said Northerly prolongation a distance of 4 feet;

thence Northwesterly to a point on said Easterly prolongation which is 15 feet West of the Point of Commencement;

thence Easterly along said Easterly prolongation a distance of 5 feet;

thence Southeasterly to the Point of Beginning; and

EXCEPT part of said Grand Street, now abandoned, described as follows:

Beginning at the intersection of the monument lines of 40th Street and Washington Street;

thence Easterly along said monument line of Washington Street a disatnce of 1409.90 feet to an orthogonal line;

thence Southerly along said orthogonal line a distance of 50 feet to the South right of way line of said Washington Street and the True Point of Beginning;

thence continuing Southerly along said orthongonal line a distance of 5 feet;

thence Westerly, parallel with said South right of way line a distance of 10 feet to an orthogonal line;

thence Northerly along lase said orthogonal line a distance of 5 feet ot said South right of way line;

thence Easterly along said South right of way line a distance of 10 feet to the True Point of Beginning; and

EXCEPT that part of Lot 12 in Block 7 of Portland Tract, described as follows:

Beginning at the Northwest corner of Lot 12;

thence Southeasterly along the North line of said Lot 12, to the West line of the East 10 feet thereof;

thence Southerly, along said West line a distance of 28.95 feet;

thence Northwesterly to the Point of Beginning; and

EXCEPT the East 10 feet of said Lot 12.

LLEGALC-7/1/93-MAB

REAL PROPERTY PURCHASE AGREEMENT

GRIMMETT FAMILY TRUST PROPERTY
4141 and 4143 E. Washington St.
Phoenix, AZ 85034

REAL PROPERTY PURCHASE AGREEMENT

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EXHIBITS

EXHIBIT A Legal Description

EXHIBIT B Phase II Investigation Scope of Work

EXHIBIT C Phase I Report, dated June 16, 1999 by AGRA Earth &
Environment, Inc., 3232 W. Virginia Ave., Phoenix, AZ 85009
(incorporated herein by reference)

Real Property Purchase Agreement

SELLER: **Grimmett Family Trust, Paul W. Grimmett, Jr. and
Fannie M. Grimmett, Trustees ("Seller")**

BUYER: **CITY OF PHOENIX, a municipal corporation
("Buyer")**

This PURCHASE AGREEMENT ("Agreement") is dated and effective as of the date of the last signature below, by and between the Buyer and the Seller (the "Effective Date").

RECITALS

A. Seller presently owns certain real property and appurtenances located at 4141 and 4143 E. Washington St., Phoenix, Arizona (the "Property").

B. The Buyer and Seller are authorized to enter into this Agreement for the purchase of real property whereby the title will pass from Seller to Buyer, under the terms and conditions set forth below.

C. The obligations of the Buyer to consummate this transaction are contingent upon the fulfillment of the conditions set forth in this Agreement, including but not limited to the following: obtaining clear title; availability of funds at the Close of Escrow; Seller's performance of all conditions precedent of this Agreement; the issuance of a Standard Title Insurance Policy; receiving a Prospective Purchaser Agreement from the United States Environmental Protection Agency and the Buyer's acceptance of the environmental studies that will be performed after this Agreement is executed.

NOW THEREFORE:

In consideration of FIVE HUNDRED DOLLARS (\$500.00) ("Earnest Money"), the receipt and sufficiency of which is hereby acknowledged, and of the mutual covenants and agreements below, Seller agrees to sell that certain real property located in Maricopa County, Arizona, the exact legal description of which is attached hereto as **Exhibit "A"** and incorporated herein by reference, and all buildings, improvements, fixtures and water rights (if any), appurtenances and the rights to any easements, rights-of-way or streets

or alleys adjacent to the property (collectively, the “**Real Property**”) on the following terms and conditions:

1. **Offer.** Upon execution by Buyer and delivery to Seller, this Agreement shall constitute the Offer of Buyer to buy the Real Property on the terms and conditions set forth below. This Offer shall be open to acceptance by Seller as provided in **Paragraph 4** of this Agreement. In the event that this condition is not met on or before the close of business on the date specified, this offer shall terminate and shall be self-revoking without further action on behalf of Buyer. In addition, and without limiting the foregoing, Buyer reserves the right to revoke this offer, upon written notice to Seller, at any time before the Offer is accepted by Seller.

2. **Binding Agreement.** This Agreement shall be attached to and deemed a part of the printed form Escrow Instructions ("**Escrow Instructions**") and shall be construed together with the Escrow Instructions as a single integrated document, provided, however, that in the event of any inconsistency between any provision in this Agreement and any provision in the Escrow Instructions, the provisions in this Agreement shall prevail. Upon the execution of the Escrow Instructions and this Agreement (collectively, the "**Agreement**") by Seller and Buyer in accordance with **Paragraph 4(a)** of this Agreement, it shall constitute a binding contract between Seller and Buyer for the purchase and sale of the Real Property, and all of Seller's rights, title and interest in any lease or rental agreements in connection with the Property disclosed to and accepted by the Buyer under **Paragraph 13(e)** of this Agreement and in effect at Closing, together with all refundable security deposits.

3. **Payment of Purchase Price.** The Purchase Price for the Property shall be Five Hundred Thousand Dollars (\$500,000.00) assuming that no additional environmental contamination is discovered during the City's Phase II Investigation of the Property, payable as follows:

(a) Five Hundred Dollars (\$500.00) Earnest Money (in the form of a City Check or City Warrant) to be deposited with Escrow Agent, together with the delivery of a fully executed original of this agreement, which deposit shall be held by Escrow Agent until this Agreement is canceled or paid to Seller as provided hereafter; and

(b) Subject to Buyer's election to purchase the Property, Four Hundred Ninety Nine Thousand Five Hundred Dollars (\$499,500.00) to be deposited with Escrow Agent on or before Close of Escrow, in the form of cash, City Check, City Warrant or other good funds or cashier's or certified check.

(c) Seventy-Nine Thousand and Fifty Dollars (\$79,050.00) in the form of a cashier's check made payable to Escrow Agent to be deposited by Seller with Escrow Agent within ten days after execution hereof, which shall be used to pay the Seller's remedial and investigative costs. This amount reflects an estimate of the seller's share of the remedial and

investigative costs for the Phase II Scope of Work (Exhibit B). Any funds not used shall be refunded to Seller. Unless paid by another party, Seller must approve in writing all expenses for remedial work or investigation in excess of \$79,050.00.

4. Acceptance, Opening, and Close of Escrow.

(a) Seller shall accept the Offer by delivery of three executed originals of this Purchase Agreement to Buyer, addressed to: Roger Whitlock, Acting Real Estate Administrator, City of Phoenix, 251 W. Washington, Phoenix, AZ, 85003-7799, by 5 p.m. M.S.T. **thirty (30) days** from Offer Date. Buyer shall promptly deposit the fully executed Agreement, the Earnest Money with Betty J. Lane, Chicago Title Insurance Company, 2415 E. Camelback Rd., #300, Phoenix, Arizona 85016 (the "**Escrow Agent**"), as provided for in this Agreement, and both parties shall execute the Escrow Company's standard Escrow Instruction ("**Opening of Escrow**"). Escrow Agent shall advise Seller and Buyer, in writing, of the date that escrow opened.

(b) Consummation of the purchase of the Property contemplated hereby ("**Close of Escrow**" or "**Closing**") shall take place within **twenty (20) business days** after Buyer notifies Seller of Buyer's election to purchase the Property under Paragraph 13(h) or 13(i), at the expiration of the times set forth in those paragraphs, unless an extension is agreed upon by the parties or this agreement is terminated by either party. At or before Closing, each party shall execute and deliver such documents and perform such acts as are required by this Agreement. All monies and documents required to be delivered under this Agreement shall be deposited in escrow on or before noon Mountain Standard Time on the Closing Date.

5. Earnest Money; Remedies; Liquidated Damages. Escrow Agent shall deposit the Earnest Money referred to above in an account of a federally-insured depository selected by Escrow Agent. Subject to any provision of this Agreement requiring a different use, in the event the sale provided for in this Agreement is consummated, the Earnest Money shall be applied by Escrow Agent toward the payment of the Purchase Price. In the event the sale is not consummated for failure of Seller to meet all of its obligations under this Agreement, then, at Buyer's request, the Earnest Money shall be returned to Buyer without Buyer waiving, or being deemed to have waived, any other claims or actions Buyer may have against Seller due to Seller's default, whether at law or in equity, including specific performance. In the event the sale is not consummated as a result of the failure of Buyer to meet all of its obligations under this Agreement, the Earnest Money shall be paid to Seller as liquidated damages as Seller's sole remedy, and both Buyer and Seller shall be relieved of all further liability to one another except for liabilities arising related to indemnification. Seller and Buyer agree that it would be impractical or extremely difficult to fix actual damages in case of a default by Buyer, and that the amount of the Earnest Money is a

reasonable estimate of Seller's damages caused by Buyer's default.

6. **Title Insurance; Conveyance of Title.** The Property, including all rights and privileges appurtenant to or arising from the Property, shall be conveyed by Seller to Buyer upon Close of Escrow by Seller's general warranty deed (the "Deed"), warranting title to the Real Property to be conveyed thereby to be a fee simple free and clear of all matters, claims, liens, and encumbrances except: (a) taxes not yet due and payable at Close of Escrow; (b) reservations in patents from the United States or the State of Arizona; and (c) any other matters disclosed by the Preliminary Title Report (or any amended report) which are deemed waived or approved by Buyer in accordance with **Paragraph 13(a)** of this Agreement.

7. **Risk of Loss.** The risk of loss or damage to the Real Property and all liability to third persons until Close of Escrow shall be borne by Seller.

8. **Possession.** Upon Close of Escrow, Seller and Seller's tenant(s) shall vacate the Real Property and deliver possession to Buyer, and all risk of loss of, or damage to, the Real Property from any source shall, at that time, pass to and become the sole responsibility of Buyer. On or before Closing, Seller shall deliver to Buyer all keys used in connection with the maintenance, operation and leasing of the Property, and building access security code(s), if any.

9. **Brokers and Commissioned Agents.** Seller and Buyer represent and warrant to each other that except for Seller's real estate broker Donald Oselette, Oselette & Associates, Inc., they have not dealt with any other real estate broker or agent in connection with this transaction. It is understood and agreed that Buyer shall not be responsible for any broker's commissions or fees. Each party shall, and does hereby agree to, indemnify, defend and hold harmless the other party from and on account of any claims, demands, costs and expenses (including reasonable attorney's fees), which may be asserted against or incurred by the indemnitee on account of the indemnitor's default of this paragraph.

10. **Cancellation: A.R.S. § 38-511.** All parties hereto acknowledge that this Agreement is subject to cancellation by the Buyer pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

11. **Relocation Benefits.** The City Council of the City of Phoenix adopted an ordinance that authorized this acquisition by purchase. The Seller shall deliver possession of the property free and clear of all claims to possession by all parties except for any Lease that Buyer elects to accept as provided in **Paragraph 13 (e)**; provided, however, that nothing in this Agreement shall constitute a waiver by any occupants to any claim they may have, if any, for relocation benefits because of being displaced by this acquisition. Seller shall not

be entitled to any relocation benefits until Buyer gives Seller notice of Buyer's election to purchase the Property. Said relocation benefits shall be computed and disbursed in accordance with the Uniform Relocation Assistance Act, 42 U.S.C. 4601, and implementing regulations.

12. **Fees, Taxes, and Assessments; Costs.** Real property taxes due on the property through the Close of Escrow shall be the responsibility of and paid by the Seller. Any existing improvement lien or other assessment affecting the Real Property, whether such liens or assessments are then due and payable, bonded, or otherwise due on one or more future dates shall be prorated to the Close of Escrow. All recording fees, escrow service fees, and other Escrow closing costs shall be charged by Escrow Agent to, and paid by, the respective parties in accordance with local custom as determined by Escrow Agent unless payment of such costs is specifically provided for in this Agreement.

13. **Buyer's Contingencies.** Buyer's obligation to consummate the transactions contemplated by this Agreement is subject to satisfaction of all of the following conditions precedent (any or all of which may be waived by Buyer, but, except as otherwise provided herein, only in a writing signed by Buyer or its duly authorized agent):

(a) **Status of Title.** Seller shall cause Escrow Agent, as soon as is reasonably possible after execution of this Agreement, to provide Buyer and Seller with a preliminary report of the title to the Real Property, together with legible copies of all instruments referred to in the report or amended report, disclosing all matters of record which relate to the title to the Real Property, and Escrow Agent's requirements for both closing the escrow created by this Agreement and issuing the Standard Policy of Title Insurance.

At such time as Buyer receives the Preliminary Title Report (and any amended report adding additional title exceptions), Buyer shall have **ten (10) business days** from the later of: (i) Opening of Escrow; or (ii) after receipt of the preliminary title report (and any amended report adding additional title exceptions) and the furnishing of all instruments described in the report to object in writing to any matter shown in the report. If Buyer fails to object within that period, the condition of title to the Real Property shall be deemed approved by Buyer.

In the event Buyer does object in writing to any matter disclosed in the preliminary title report or any amended report, Seller shall attempt, in good faith and using due diligence, to remove such objection before Close of Escrow. If any such matter cannot be removed after Seller's attempts to do so, Seller shall so notify Buyer, in writing, and Buyer shall elect within **ten (10) business days** after receipt of Seller's notice either: (i) to cancel this Agreement and receive return of all Earnest Money paid; or (ii) to close escrow waiving and taking title subject to such matters., assuming that Buyer has given notice of Buyer's

election to purchase. Buyer's failure to give notice to Seller of Buyer's election to cancel this Agreement because of an objection to the recorded matter(s) shall constitute an election to waive the objection.

Seller shall have performed fully and complied with the agreements required to be performed or complied with by it prior to or at Close of Escrow, including satisfaction of the requirements contained in the "Requirements" section or Schedule "B" of the Preliminary Title Report referred to in this Agreement.

(b) **Additional Encumbrances.** Seller shall not place, permit, or cause to be placed any liens or encumbrances on the title to the Property from the date of this Agreement through Close of Escrow or thereafter. If Seller places, permits, or causes a lien or encumbrance on the Property, contrary to the provisions of this Agreement, which can be removed by the payment of money, Escrow Agent is hereby expressly authorized, directed, and instructed to pay such monies in order to remove the lien or encumbrance at Close of Escrow from monies otherwise payable to Seller at Close of Escrow, and the net proceeds otherwise available to Seller at Close of Escrow shall be reduced accordingly. To the extent that monies available to Seller at Close of Escrow are insufficient to cause any such lien or encumbrance to be removed, Seller shall, on or before the date set for Close of Escrow, cause additional monies to be deposited with Escrow Agent to enable Escrow Agent to remove the lien or encumbrance.

(c) **Investigation.** Buyer shall have the right until **forty-five (45) days** from Opening Escrow (the "**Investigation Date**") to access the Property at any time with any persons whom it shall designate, including engineers, soil testing personnel and land surveyors to survey, inspect and perform any tests upon the Property that Buyer deems necessary or appropriate to determine whether the Property is suitable for Buyer's purposes. A Phase II Environmental Investigation of the Property (the "**Phase II Investigation**") shall be prepared by City's consultant (the "**Consultant**") in accordance with the attached Scope of Work (**Exhibit B**); provided that Buyer shall not unreasonably interfere with Seller's use of the Property. If additional time is required to complete the Phase II Investigation pursuant to the contingencies set forth in Exhibit B, the Investigation Date will be extended accordingly. Buyer shall leave the Real Property in substantially the condition existing prior to the time of any entry. Buyer's obligation to purchase the Property will be contingent upon the Buyer being satisfied with the results of the Phase II Investigation in Buyer's sole and absolute discretion. If the Phase II Investigation indicates the presence of contamination, the Purchase Price shall be reduced by the cost of remediation.

If Buyer elects to purchase the Property, Buyer reserves the right to access the Property for a final physical inspection at any time prior to closing.

(d) **Earnest Money.** In the event this Escrow is terminated under any circumstance which would entitle Buyer to a refund of the Earnest Money deposit, then, any other provision of this Agreement to the contrary notwithstanding, One Hundred Dollars \$100.00 of the Earnest Money shall be non-refundable to Buyer and shall represent Buyer's independent consideration to Seller for removing the Real Property from the market for sale to other prospective purchasers prior to the Investigation Date.

(e) **Leases.** As soon as reasonably possible after execution of this Agreement, Seller shall provide Buyer with legible copies of all leases and other documents evidencing the rights and privileges of any party claiming an interest in the Real Property ("Leases"). Buyer shall have **ten (10) business days** from the later of: (i) Opening of Escrow; or (ii) after receipt, to object in writing to all or any of the Leases. If Buyer fails to object, those Leases as to which no objection has been raised shall be deemed approved. In the event Buyer does object in writing to any Lease, Seller shall attempt, in good faith and using due diligence, to cause the Lease to be canceled or terminated before Close of Escrow. Buyer acknowledges that Carz For You is in legal possession of the Property and that Seller shall attempt to cancel or terminate the lease prior to Closing. If any Lease cannot be canceled or terminated after Seller's attempts to do so, Seller being under no obligation to institute litigation or to expend any money to induce a Lessee to agree to cancellation or termination of its Lease, Seller shall give notice to the Buyer, and Buyer shall elect within **ten (10) business days** after receipt of Seller's notice either: (i) to cancel this Agreement and receive all Earnest Money paid; or (ii) to close escrow waiving its objection and taking title subject to the Lease or Leases. Failure to give notice to Seller of Buyer's election shall constitute an election to waive the objection.

(f) **Formal Approval.** Seller shall provide Buyer with evidence reasonably satisfactory to Buyer, within **thirty (30) business days** of Opening of Escrow, that all actions of Seller, its partners or others necessary to authorize the transactions contemplated by this Agreement have been taken, or will be taken, and that the individual who will execute this Agreement, on behalf of Seller is duly and properly authorized to do so on Seller's behalf.

(g) **Cancellation/Extension of Time/Termination.** If any of the contingencies provided in this Paragraph 13 are not met, the Buyer may elect to cancel this Agreement by giving written notice to Escrow Agent, and Buyer shall not be obligated to purchase the property. However, the Buyer may at its discretion elect to purchase the Property but, prior to such election, the Buyer shall have an **additional 45 days** from the Investigation Date to evaluate the findings and conclusions to determine the probable extent of contamination and to estimate the cost and additional time necessary to remediate the Property. Within **five (5) business days** after expiration of the 45 day period, the Buyer shall notify Seller and the Escrow Agent of the Buyer's election to either purchase or not purchase

the Property, and if additional time will be necessary to remediate any contamination that is discovered during the Phase II Investigation. If the Buyer elects not to purchase the Property due to the non-fulfillment of any of the conditions precedent in this **Paragraph 13** in Buyer's sole and absolute discretion, unless Buyer waives the condition, this Agreement shall terminate with neither party having any further liability or obligation to the other.

(h) **Prospective Purchaser Agreement with EPA.** Notwithstanding any other provision of this Agreement, Buyer shall seek to finalize the acquisition under the United States Environmental Protection Agency's ("EPA") Prospective Purchaser Program which shall be a condition precedent to Buyer's obligation to close. Buyer shall have an additional six months after the Phase II Investigation is completed to obtain a Prospective Purchaser Agreement from the EPA. If the EPA provides the Buyer with a Prospective Purchaser Agreement, the Seller shall not be subject to the environmental representation and warranty provisions in **Paragraph 16** of this Agreement.

(i) **All Contingencies Satisfied: Notice of Election to Purchase.** If the Property meets all of the contingencies in **Paragraph 13**, Buyer shall promptly so notify the Seller and the Escrow Agent and the Buyer shall be obligated to purchase the Property.

14. Documents Pertaining to the Real Property. Upon execution of this Agreement, Seller shall allow Buyer to inspect and copy any and all information, data, documents, and other materials in Seller's possession or reasonably available to Seller relating to the property including all reports related to environmental matters, engineering and/or survey work, preliminary and final plats relating to the Real Property, all land use planning and marketing information pertaining to the Real Property, and all contractor's bids and cost estimates pertaining to the Real Property. Seller shall deliver the original and all copies of the information, data, documents, and materials in Seller's possession to Buyer at Close-of Escrow and Seller's interest in them shall pass to Buyer at Close of Escrow.

15. Seller's Representations, Warranties, and Covenants. Seller warrants, represents, and covenants (with the understanding that Buyer is relying on these warranties, representations, and covenants) that:

(a) Except as reflected in the Preliminary Title Report at the time of execution of this Agreement, there are no claims, actions, suits, or other proceedings pending or threatened by any governmental department or agency or any other corporation, partnership, entity, or person whomsoever, nor any voluntary actions or proceedings contemplated by Seller, which in any manner or to any extent may detrimentally affect Buyer's right, title, or interest in and to the Property or the value of the Property or Seller's ability to perform Seller's obligations under this Agreement.

(b) Seller owns the Real Property in fee simple absolute, subject only to the matters reflected in the Preliminary Title Report.

(c) Except for the acquisition by the City of Phoenix, there is no pending or threatened condemnation or similar proceeding affecting any part of the Real Property, and Seller has not received any notice of any such proceeding and has no knowledge that any such proceeding is contemplated.

(d) No work has been performed or is in progress at the Real Property and no materials have been furnished to the Real Property which might give rise to mechanic's, materialman's, or other liens against any part of the Real Property.

(e) Seller is not prohibited from consummating the transactions contemplated by this Agreement by any law, regulation, agreement, instrument, restriction, order, or judgment.

(f) Unless previously disclosed to Buyer as provided under **Paragraph 13(e)** of this Agreement, at Close of Escrow there will be no parties in possession of the real property and no party has been granted any license, lease, or other right relating to the use or possession of the Real Property.

(g) There are no written modifications of any Leases other than those Leases of the Property which have been provided to Buyer. The Leases have not been modified by any oral agreements.

(h) There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorship, or voluntary or involuntary proceedings in bankruptcy or pursuant to any other laws for relief of debtors contemplated or filed by Seller or pending against Seller or affecting or involving the Property.

(i) There is no default, nor has any event occurred which, with the passage of time or the giving of notice or both, would constitute a default in any contract, mortgage, deed of trust, lease, or other instrument which relates to the Property or which affects the Property in any manner whatsoever.

(j) There are no contracts or other obligations outstanding for the sale, exchange, or transfer of all or any part of the Property.

(k) Seller has not violated, and to the best of Seller's knowledge, no other person has violated any laws, rules, regulations, ordinances, codes, covenants, conditions, restrictions, instructions, or agreements applicable to the Property. Seller has not received

notices from any insurance companies, governmental agencies, or any other person with respect to violations concerning the Property. If any notices of violations are received prior to Close of Escrow, Seller shall immediately submit copies to Buyer and Buyer's review and acceptance shall be a condition precedent to Close of Escrow.

(l) No improvement district is planned that would include the Real Property, and there are no assessment liens against the Real Property except as disclosed in the Title Report.

(m) Seller shall not at any time prior to Close of Escrow grant to any person an interest in the Real Property.

(n) At and after the Close of Escrow there will be no other contracts in force or effect related to the future use, occupancy, services to, or maintenance of the Property.

16. Environmental Representations and Indemnity. The parties acknowledge those matters that are contained in the Phase I Environmental Site Assessment dated June 16, 1999, performed by Consultant ("Exhibit C") and that there are materials containing asbestos and lead-based paint on the Property as disclosed in the report of Allen Environmental, 800 N. Mary St., Tempe, AZ 85281, dated June 9, 1999. In addition, a Phase II Environmental Investigation will be performed. The following representations, warranties and indemnities apply to environmental matters other than those that are or may be disclosed in those reports, *unless Buyer receives Contribution Protection and a Covenant Not to Sue from the EPA under a Prospective Purchaser Agreement, in which case Buyer shall waive the Seller's obligation to provide the warranties and indemnities under this Paragraph.*

(a) Seller warrants that; 1) neither Seller nor, to the best of Seller's knowledge after a due diligence inquiry, any other person has ever caused or permitted any Regulated Substances to be disposed of or released (i) on, under, or at the Property or any part thereof; or (ii) from the Property or any part thereof into the atmosphere, soils, or any watercourse, groundwater or body of water; and 2) that neither the Property nor any part thereof has ever been used (whether by Seller or, to the best of Seller's knowledge, by any other person) as a treatment, storage, or disposal site (whether permanent or temporary) for any Regulated Substances. For purposes of this Agreement, "Regulated Substances" includes without limitation any petroleum product, and any hazardous substance, hazardous, toxic, or dangerous waste, substance, or material, as now or at any time hereafter in effect, PCB's, or material or any pollutant or contaminant defined as such in (or for purposes of) any environmental law, including any local, state or federal statute, law, regulation or rule

governing the treatment, storage disposal, release or cleanup of any Regulated Substance (collectively, "**Environmental Laws**").

(b) Seller hereby indemnifies Buyer and agrees to pay, defend, and hold Buyer harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses, and claims of any and every kind whatsoever. This indemnity includes reasonable attorneys' fees paid, incurred or suffered by, or asserted against, Buyer for, with respect to, or as a direct or indirect result of, a breach of any of the Environmental Representations or Warranties contained in this agreement or the presence on or under the Property, as of Close of Escrow, or the escape, seepage, leakage, spillage, discharge, emission, or release from the Property into or upon any land, the atmosphere, or any watercourse, groundwater or body of water of any Regulated Substance as of Close of Escrow. This indemnification includes, without limitation, any losses, liabilities, damages, injuries, costs, expenses, or claims asserted or arising under any Environmental Law.

(c) Nothing in this Agreement shall be construed as a release or waiver of any claims or causes of action the Buyer may now have or in the future have against the Seller relating to the Seller's use of the Property or conditions that exist on the Property as a result of the Seller's activities. This Indemnity does not apply to any soil, air, or groundwater contamination that has migrated to the Property from another location that was not owned or operated by the Seller or any of its officers, partners, employees, or agents.

17. Buyer's Representations, Warranties and Indemnities. Buyer warrants, represents, and covenants (with the understanding that Seller is relying on said warranties, representations, and covenants) that:

(a) Buyer has full power and authority to enter into and perform this Agreement in accordance with its terms.

(b) Buyer agrees to accept the Property in its present condition "AS IS," subject only to the specific warranties and indemnities set forth in this Agreement.

(c) Buyer acknowledges that no person acting on behalf of Seller is authorized to make, and by execution of this Agreement, Buyer acknowledges that no person acting or purporting to act on behalf of Seller has made, any representation, warranty, guaranty, or promise, whether oral or written, except as set forth in this Agreement; and any agreement, statement, representation, or promise made by any person which is not contained in this Agreement shall not be valid or binding upon Seller.

18. Survival of Representations, Warranties and Indemnities. All representations, warranties and indemnities contained in this Agreement (and in any

instrument delivered by or on behalf of any party pursuant hereto or in connection with the transactions contemplated hereby) are true on and as of the date so made, will be true in all material respects on and as of the Closing Date, and will survive Close of Escrow and execution, delivery, and recordation of the Deed. In the event that any representation or warranty by a party is untrue, the other party shall have all rights and remedies available at law, in equity, or as provided in this Agreement.

19. **Condemnation.** In the event of the condemnation (or sale in lieu of condemnation) of any part of the Property prior to Close of Escrow, Buyer shall have the right either: (i) to cancel this Agreement by written notice to Seller and Escrow Agent, in which event the Earnest Money shall be returned to Buyer, all documents shall be returned to the party who deposited them, and thereafter this Agreement shall be of no further force or effect whatsoever; or (ii) to elect to receive all awards or payments made for the Property by the condemning authority and to which Seller is entitled, and thereupon close escrow as otherwise contemplated in this Agreement and pay the full Purchase Price. Seller shall not do or forebear to do any acts in any condemnation action which will materially and adversely affect the outcome thereof without consulting with, and obtaining the consent of, Buyer prior to Close of Escrow. For purposes of this Agreement, the Property shall be deemed the subject of a condemnation action as of the date of issuance of a summons in connection with the filing of a complaint in eminent domain (or similar filing) by any condemning authority or statutorily authorized non-governmental condemnor.

20. **Notices.** Notices required or permitted hereunder shall be given in writing and personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, or by a nationally recognized overnight courier service (e.g., Federal Express, United Parcel Service) addressed as follows:

To Seller: Paul W. and Fannie M. Grimmett
4143 E. Washington St.
Phoenix, AZ 85034

Donald Oselette
Oselette & Associates, Inc.
7640 E. 3rd St.
Scottsdale, AZ 85251
Telephone: (480) 945-5267
Telefax: (480) 945-3457

To Buyer: City of Phoenix, Finance Dept., Real Estate Division
Attn.: Barney Shebek
Property Specialist

251 W. Washington St.
Phoenix, AZ 85003-7799
Telephone: (602) 262-6038
Telefax: (602) 261-8919

cc: City of Phoenix Aviation Department
Attn.: Tina Washington
Economic Development Specialist
3400 Sky Harbor Blvd.
Phoenix, AZ 85034-4420
Telephone: (602) 273-8880
Telefax: (602) 273-4083

To Buyer's: Phyllis Hughes
Counsel Assistant City Attorney
200 W. Washington, Suite 1300
Phoenix, AZ 85003-4420
Telephone: (602) 273-4012
Telefax: (602) 273-4580

Escrow Agent: Chicago Title Company
Attn: Betty J. Lane
2415 E. Camelback Rd., Suite 300
Phoenix, AZ 85016
Telephone: (602) 667-1045
Telefax: (602) 667-1082

or at any other address designated by Buyer, Seller, or Escrow Agent, in writing, and any such notice of communication shall be deemed to have been given as of the date of delivery, if hand or courier-delivered (including Federal Express or other established overnight service which obtains a signed receipt upon delivery), or as of **three (3) business days** after the date of mailing if mailed certified, return receipt requested, postage prepaid. Copies of all Notices or communications to Buyer or Seller shall be hand- or courier-delivered or mailed, in the manner set forth above, to Escrow Agent, and copies of all Notices by Buyer or Seller to Escrow Agent shall be hand- or courier-delivered or mailed, in the manner set forth above, to the other party.

21. **Attorneys' Fees.** In the event suit is brought or an attorney is retained by any party to this Agreement to seek interpretation or construction of any term or provision of this Agreement, to enforce the terms of this Agreement, to collect any money due, or to

obtain any money damages or equitable relief for breach, the prevailing party shall be entitled to recover, in addition to any other available remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation, and other related expenses.

22. **Intended Agreement.** This Agreement is the result of arms-length negotiations between parties of roughly equivalent bargaining power and expresses the complete, actual, and intended agreement of the parties. This Agreement shall not be construed for or against either party as a result of its participation, or the participation of its counsel, in the preparation and/or drafting of this Agreement or any exhibits hereto.

23. **Relationship.** This Agreement shall not be construed as creating a joint venture, partnership, or any other cooperative or joint arrangement between Buyer and Seller, and it shall be construed strictly in accordance with its terms.

24. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors in interest and permitted assigns.

25. **Further Instruments and Documents.** Each party hereto shall promptly, upon the request of the other party or Escrow Agent, acknowledge and deliver to the other party or Escrow Agent any and all further instruments and assurances reasonably requested or appropriate to evidence or to give effect to the provisions of this Agreement or to satisfy Escrow Agent's requirements.

26. **Integration Clause; No Oral Modification.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all agreements, oral or written, entered into prior to this Agreement are revoked and superseded by this Agreement. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein or in other contemporaneous written agreements. This Agreement may not be changed, modified, or rescinded, except in a writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

27. **Governing Law; Choice of Forum.** This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to choice of law principles). Any action brought to interpret, enforce, or construe any provision of this Agreement shall be commenced and maintained in a court of competent jurisdiction located in Maricopa County, Arizona.

28. **Severability.** If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, and this

Agreement shall otherwise remain in full force and effect.

29. **Waiver.** Failure of any party to exercise any right, remedy, or option arising out of a breach of this Agreement shall not be deemed a waiver of any right, remedy, or option with respect to any subsequent or different breach or the continuance of any existing breach.

30. **Counterparts.** This Agreement may be executed in any number of counterparts. Any set of identical counterparts containing the signatures of all parties shall be deemed to constitute one instrument, and each such set of counterparts shall be deemed an original. If counterparts are employed, then, upon Close of Escrow, Escrow Agent shall assemble all counterpart signature pages into a single document containing all original signatures, and this document shall be delivered to Buyer's counsel with copies of the document (including all signatures) to be delivered contemporaneously, by Escrow Agent, to Seller, Seller's counsel, and Buyer.

31. **Date of Agreement.** The date of this Agreement shall for all purposes be the date of the signature of the last party (including Escrow Agent) to sign this Agreement.

32. **Time of Essence.** Time is hereby declared to be of the essence for the performance of all conditions and obligations under this Agreement.

33. **Construction; Interpretation.** The captions and paragraph headings used in this Agreement are for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement. When used herein, the terms "include" or "including" shall mean without limitation by reason of the enumeration. All grammatical usage herein shall be deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person or persons may require. The term "person" shall include an individual, corporation, partnership, trust, estate, or any other entity. If the last day of any time period stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday in the State of Arizona.

34. **Foreign Tax Withholdings.** Seller shall provide to Buyer and Escrow Agent at Closing appropriate affidavits stating that it is not a foreign person and that no withholding is required pursuant to Internal Revenue Code. In the event such affidavits are not forthcoming or in the event either Escrow Agent or Buyer knows or has reason to know that they are false, Escrow Agent is hereby irrevocably authorized and directed to withhold 10% of Seller's proceeds of the purchase price pursuant to Internal Revenue Code for disposition in accordance therewith and in accordance with applicable regulations.

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement.

BUYER: CITY OF PHOENIX, a municipal corporation
FRANK FAIRBANKS, City Manager

By:



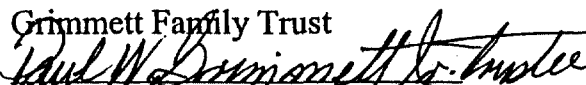
Roger Whitlock

Acting Real Estate Administrator

Date: 12-31-01

SELLER:

Grimmett Family Trust


By: Paul W. Grimmett, Jr., Trustee


Date: 1-02-02

PRH/lg

REVISED 12/18/01

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ESCROW AGENT'S ACCEPTANCE

The foregoing fully executed Agreement and Buyer's Deposit are accepted this 25 day of July, 2004 which for purposes of this Agreement shall deemed to be the date of Opening of Escrow.

ESCROW AGENT:

Chicago Title

By:

[Signature]

Escrow Officer

PRH/lg

Revised 12/18/01

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LEGAL DESCRIPTION OF
A PARCEL OF LAND LOCATED AT
4141 AND 4143 EAST WASHINGTON STREET

Lots 7 through 12, inclusive, Block 7, PORTLAND TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 11 of Maps at page 33;

TOGETHER WITH that part of the North half of the East-West alley in said Block 7 lying between the Southerly prolongation of the West line of said Lot 7 and the Southerly prolongation of the West line of the East 10 feet of said Lot 12; and

TOGETHER WITH that part of Grand Street, as shown on and dedicated by said plat, lying South of the Easterly prolongation of the North line of said Lot 7, and West of the Northerly prolongation of the West line of said Lot 12;

EXCEPT that part of said Lot 12 described as follows:

BEGINNING at the Northwest corner of said Lot 12;

thence Southeasterly along the North line of said Lot 12 to the West line of the East 10 feet thereof;

thence Southerly along said West line a distance of 28.95 feet;

thence Northeasterly to the POINT OF BEGINNING; and

EXCEPT that part of said Grand Street described as follows:

BEGINNING at the intersection of the Easterly prolongation of the North line of said Lot 7 and the Northerly prolongation of the West line of said Lot 12;

thence Southerly along last said prolongation a distance of 14 feet;

thence Northwesterly to a point in said Easterly prolongation which is 15 feet West of the POINT OF BEGINNING;

thence Easterly along last said prolongation to the POINT OF BEGINNING; and

EXCEPT that part of said Grand Street described as follows:

COMMENCING at the intersection of the monument lines of 40th Street and Washington Street;

thence Easterly along said monument line of Washington Street a distance of 1409.90 feet to an orthogonal line;

thence Southerly along said orthogonal line a distance of 50 feet to the South right of way line of said Washington Street and the POINT OF BEGINNING;

thence continuing Southerly along said orthogonal line a distance of 5 feet;

thence Westerly, parallel with said South right of way line a distance of 10 feet to an orthogonal line;

thence Northerly along last said orthogonal line a distance of 5 feet to said South right of way line;

thence Easterly along said South right of way line a distance of 10

feet to the POINT OF BEGINNING.

Prepared August 10, 1999, in
Title Section,
Real Estate Division
By MARSHALL J. MALINA,
Property Specialist

Marshall J. Malina

Checked Roger M. Malina Date 8-10-99

99097-MM.DOC

EXHIBIT A



AGRA Earth &
Environmental, Inc.
3232 West Virginia Avenue
Phoenix, Arizona 85008-1502
Tel (602) 272-6848
Fax (602) 272-7239
Toll Free 1-800-248-AGRA

June 25, 1999
AEE Proposal No. PV99-8-50
Modification No. 1

Engineering & Architectural
Services Department
City of Phoenix
200 West Washington Street
Phoenix, Arizona 85003

Attn: Ms. Karen A. Winters
Environmental Programs Assistant

RE: PROPOSAL FOR PHASE II
SITE ASSESSMENT SERVICES
(MODIFICATION OF JUNE 22, 1999 PROPOSAL)
SUPREME AUTO CARE CENTER AND DRIVE LINE
SERVICE OF PHOENIX, INC.
4141 & 4143 EAST WASHINGTON STREET
PHOENIX, ARIZONA
AV01000087-S

Ladies & Gentlemen:

AGRA Earth & Environmental, Inc. (AEE) is pleased to present the enclosed modified proposal to conduct Phase II Site Assessment Services at the Supreme Auto Care Center (Supreme Auto) and Drive Line Service of Phoenix, Inc. (Drive Line) facilities located at 4141 and 4143 East Washington Street, respectively, in Phoenix, Arizona. AEE has addressed several comments to the June 22, 1999 proposal in regards to the analytical laboratory and analytical turnaround times. All proposed activities will be completed in accordance with the current Annual Services Contract (Contract No. 82407) between the City of Phoenix and AEE. The following sections present our understanding of the project, a scope of work, and an estimate of costs to complete the scope of work.

1.0 PROJECT UNDERSTANDING

Our understanding of the project is based on discussions with you and other personnel from the City of Phoenix, and the results of our Phase I Environmental Site Assessment (ESA) conducted on behalf of the City of Phoenix. The Phase I ESA report (AEE Job No. 9-114-002118) was finalized on June 16, 1999.

EXHIBIT "B"

Proposal For Phase II
Site Assessment Services
(Modification of June 22, 1989 Proposal)
Supreme Auto Care Center and Drive Line
Service of Phoenix, Inc.
4141 & 4143 East Washington Street
AV01000097-8

AEE Proposal No. PV89-6-50
June 25, 1989
Page 2

At the time of AEE's Phase I ESA, the Site consisted of an approximate 0.5-acre parcel of land with two single-story buildings in use by two businesses: Supreme Auto and Drive Line. The north half of the northern building (facing Washington Street at the 4141 address) was occupied by Supreme Auto. The south half of this building consisted of storage rooms utilized by Drive Line and by the property owner, Paul Grimmatt, for personal storage (RV garage). The second, southern building (4143 address) was occupied solely by Drive Line.

Based upon research conducted during AEE's Phase I ESA, the Site was vacant land from at least 1940 (earliest aerial photograph) to 1958. From 1958 to the late 1970's, the Site contained an auto repair shop. From the late 1970's to the present, the Site has included two businesses, an auto repair shop at the 4141 address and a Drive Line repair shop at the 4143 address.

The following issues requiring further investigation were identified during completion of the Phase I ESA:

- The adjoining State Contaminant List (SCL) sites include the Capitol Metals Co. site to the west, the Automatic Transmission Exchange facility to the northwest, and the Laundry Cleaners Supply to the northwest. Preliminary assessments are in progress for these three facilities. Based upon the proximity to the Site, there is a potential for these SCL facilities to adversely impact the Site. According to A.R.S. 49-283(E), however, an owner is not liable for contamination on said property if contamination was not generated on-site or is not affiliated with the source of contamination.
- The on-site sanitary sewer system consists of a bell cistern which was installed at the time the Site was developed (1958). Construction details concerning the bell cistern were not available to AEE, however, bell cisterns are typically open-bottomed, at least 15-20 feet deep, approximately five feet in diameter and constructed of brick-lined walls. The tops of bell cisterns typically narrow to only a few feet and are capped with a concrete lid. The bell cistern at the Site is located under the canopy to the covered parking area east of the Drive Line building. The cistern is currently covered by asphalt and is not accessible. Currently, discharge to the bell cistern is limited to sanitary waste from the Site building's bathrooms, however, the sump within the RV storage garage is apparently piped to the cistern. Past discharge practices may have included the discharge of contaminants to the bell cistern via the sump.
- AEE observed an elongated cleaning rack adjacent to the Oakite parts washer. Parts cleaned in the parts washer are given a final rinse and then air-dried over the rack. Rinseate is collected by a tank under the rack. A rubber hose drains from the bottom of the rack to a small grassy area approximately 10 feet away. AEE observed a small area of oily water ponded in the grassy area and the soil appeared to be saturated.

Proposal For Phase II
Site Assessment Services
(Modification of June 22, 1999 Proposal)
Supreme Auto Care Center and Drive Line
Service of Phoenix, Inc.
4141 & 4143 East Washington Street
AV01000097-S

AEE Proposal No. PV99-8-50
June 26, 1999
Page 3

- AEE observed four hydraulic lifts with subsurface hydraulic pistons on the Site: two under the canopy south of the Supreme Auto building, one on the pavement north of the Supreme Auto building, and a fourth within the RV storage garage. Of these four hydraulic lifts, the lift within the RV storage garage appeared to be leaking hydraulic oil onto the concrete floor around the lift. All four lifts were reportedly in good operating condition, however, and have not required repairs.

Based on these conclusions, AEE recommended the following:

- The presence of the bell cistern and its connection to the sump within the RV storage garage represents a recognized environmental condition. Although previous uses of the sump were reportedly limited to car washing activities, a discharge of contaminants to the sump and bell cistern may have occurred. AEE recommends that both the sump and cistern be evaluated to determine their construction and to confirm their connection to each other. Contents of the sump and bell cistern should be sampled to determine if existing liquids or sludges contain contaminants (petroleum hydrocarbons, volatile organic compounds, and metals). Soil sampling adjacent to or beneath these features should be considered if contaminants are detected. The sump should be abandoned to avoid any potential for future discharges to the bell cistern.
- The area where oily water is discharged from the drive line cleaning rack should be evaluated through the collection of soil samples and analysis for petroleum hydrocarbons, VOCs, and metals. This discharge should be discontinued and wash rack rinseate should be collected and disposed of properly.
- The area around the leaking hydraulic lift within the RV storage garage should be evaluated to determine if any hydraulic oil has leaked to subsurface soils. Soil samples beneath the lift should be collected and analyzed for petroleum hydrocarbons. The lift should be maintained or repaired to mitigate any further leakage.
- The three hydraulic lifts not observed by AEE to be leaking should be evaluated for subsurface leakage. If the soils surrounding the hydraulic piston can not be observed directly, soil samples should be collected beneath the lifts and analyzed for petroleum hydrocarbons.
- ADEQ files concerning the adjoining properties (Capitol Metals, Inc., Automatic Transmission Exchange, Laundry Cleaners Supply) should be reviewed. The objective of the review is to determine the status of preliminary assessments being conducted and to evaluate the potential for an impact to the Site.

Proposal For Phase II
Site Assessment Services
(Modification of June 22, 1988 Proposal)
Supreme Auto Care Center and Drive Line
Service of Phoenix, Inc.
4141 & 4143 East Washington Street
AV01000097-6

AEE Proposal No. PV88-6-50
June 25, 1988
Page 4

2.0 SCOPE OF WORK

AEE proposes to implement the recommendations presented above. The following subsections describe the methodologies proposed to evaluate each area.

2.1 TASK ONE - REGULATORY FILE REVIEW

Based on the VISTA database report in the Phase I ESA, preliminary assessments are being conducted by the Arizona Department of Environmental Quality (ADEQ) for the Capitol Metals, Inc., Automatic Transmission Exchange, and Laundry Cleaners Supply facilities. Files are assumed to be available for each of these three facilities through ADEQ's Remedial Projects Program which administers the Water Quality Assurance Revolving Fund (WQARF). AEE's file review will result in the following: 1) a determination of the status of the investigation at each facility, 2) an estimate of the extent of contamination in soil and/or groundwater at each facility, and 3) an evaluation of the potential for contaminants to impact the subject Site. If any questions remain following AEE's file review, AEE will contact the ADEQ Project Manager to clarify any issues regarding the three facilities which may affect the subject Site.

2.2 TASK TWO - FIELD INVESTIGATIONS

Prior to initiating field activities, AEE will prepare a Health and Safety Plan (HASP). The HASP will outline Health and Safety guidelines to follow during the completion of field activities. The HASP will present all the components required by the Occupational Safety and Health Act (OSHA) for work activities at sites where hazardous contaminants may be encountered. During the proposed field activities, exposure to biologic contaminants are of particular concern due to the planned sampling of the bell cistern.

Bell Cistern and Sump Assessment

Based on the potential for a release of contaminants to the bell cistern through the sump in the RV garage, AEE proposes to conduct an evaluation of both features. Ideally, drilling and sampling beside the bell cistern to a depth at or below the base of the cistern would be proposed. However, based on several factors, AEE does not recommend drilling beside the cistern. These factors include the fact that coarse sediments (gravel and cobbles) are likely to be present at shallow depths (less than 15 feet below ground surface (bgs)). This information was obtained from boring logs for a nearby Leaking Underground Storage Tank (LUST) site (Thrifty Auto Rentals, 4114 East Washington Street). Soil sampling is difficult and often problematic in coarse sediments. In addition, the integrity of the brick-lined bell cistern may be endangered by drilling adjacent to the structure using the heavy drill rig necessary for drilling through coarse sediments.

Proposal For Phase II
Site Assessment Services
(Modification of June 22, 1999 Proposal)
Supreme Auto Care Center and Drive Line
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June 25, 1999
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Therefore, in order to evaluate the presence of contaminants in the bell cistern, AEE proposes to collect a sample within the interior of the bell cistern. According to Mr. Paul Grimmatt (the Site owner), the cistern can be easily accessed by removing the asphalt and exposing the concrete lid to the cistern. AEE will remove the concrete lid, insert a hand auger into the cistern, and use the necessary number of five-foot extensions to reach into the sludges present within the cistern. AEE will attempt to core as deep as possible within the cistern sludges and retrieve a sample. All sampling will be conducted under strict Quality Assurance/Quality Control (QA/QC) including decontamination of sampling equipment between sample locations. An AEE geologist will supervise and document the sampling procedures.

AEE will also evaluate the sump within the RV garage. Once the sump has been examined to determine if there is any potential for leakage through cracks or holes, AEE will use a private utility locator to confirm that the sump is connected to the bell cistern. AEE will also evaluate whether any sludges or sediments are present within the sump. If any sludges or sediments are present, AEE will collect a sample using a decontaminated, stainless steel hand trowel or hand auger, if necessary.

The retrieved samples from both the cistern and the sump will be handled in accordance with ADEQ and AEE QA/QC protocol. The samples will be submitted under chain-of-custody to the analytical laboratory for analysis of fuel hydrocarbons in accordance with EPA Method 8015AZ, for volatile organic compounds in accordance with EPA Method 8260B, and for the Eight RCRA Metals in accordance with EPA 6000- and 7000-series Methods. Samples will be submitted to Del Mar Analytical (Del Mar) in Phoenix, Arizona. Del Mar's laboratory is licensed through the Arizona Department of Health Services (ADHS). AEE has presented costs for normal, two-week turnaround on sample analyses. A surcharge of 25 percent will be incurred to analyze samples on a five-day turnaround.

Cleaning Rack Discharge Area

The area where oily water is discharged from the drive line cleaning rack will be evaluated through the collection and analysis of soil samples. AEE will use a decontaminated hand auger to drill to one foot bgs at the center of the area where oily water is discharged. AEE will then use a slide impact hammer to collect an undisturbed soil sample at one foot bgs. Drilling will then continue to five feet bgs, where a second soil sample will be collected.

Sampling methodologies will involve the use of a slide impact hammer to ensure an undisturbed soil sample. The slide impact hammer core barrel will be loaded with a 8-inch long by 2-inch diameter brass sampling sleeve and driven into the sediments at the desired depth. At each depth, the sample will be retrieved, removed from the core barrel, capped with Teflon

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June 26, 1999
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sheets, aluminum foil patches, and plastic end caps. The sample will then be labeled, stored on ice in a cooler and submitted to the analytical laboratory under chain-of-custody.

Both samples will be analyzed for fuel hydrocarbons, VOCs, and the eight RCRA Metals by Del Mar's analytical laboratory as described previously.

Hydraulic Lifts

The pistons for all four hydraulic lifts (including the leaking lift in the RV garage) will be evaluated through an access point, if possible, to determine if leakage of hydraulic oils has occurred to subsurface soils. If the lifts can not be accessed for a visual inspection, AEE will collect soil samples at a depth adjacent to the bottom of the lift pistons. AEE will contract with a concrete coring company to core through concrete adjacent to each lift. AEE will then drill with a hand auger to five feet bgs at each location and a soil sample will be collected using a slide impact hammer.

Each of the four soil samples (one per hydraulic lift) will be submitted under chain-of-custody to Del Mar's analytical laboratory. Samples will be analyzed for fuel hydrocarbons in accordance with ADHS Method 8015AZ. If fuel hydrocarbon concentrations in a specific sample exceed the Residential Soil Remediation Level (SRL), AEE will also analyze for polyaromatic hydrocarbons (PAHs) in accordance with EPA Method 8310.

2.3 TASK THREE - REPORT OF FINDINGS

Once analytical results are received from the soil and sediment sampling, a draft report of findings will be prepared by AEE. The report will present sampling methodologies, document the location and depth of samples, present the sample results, and provide conclusions and recommendations. A table summarizing the results, and figures documenting Site features, sample locations and the results of the analysis will be included. The report will be finalized once comments are received from the City of Phoenix representatives.

3.0 SCHEDULE & PERSONNEL

AEE can initiate Task 1 (Regulatory File Review) immediately upon authorization. Depending on personnel availability, AEE anticipates that Task 2 (Field Sampling Activities) can be scheduled immediately upon authorization and can be completed in one to two working days. Del Mar's laboratory has indicated that soil sample results will be available within ten working days. A 25 percent surcharge will be incurred for five-day analysis. If authorization to proceed is given on June 28, 1999, Task 3 (Report of Findings) can be completed by July 20, 1999.

Proposal For Phase II
 Site Assessment Services
 (Modification of June 22, 1999 Proposal)
 Supreme Auto Care Center and Drive Line
 Service of Phoenix, Inc.
 4141 & 4143 East Washington Street
 AV01000087-S

AEE Proposal No. PV99-6-50
 June 25, 1999
 Page 7

The Project Manager assigned to this project is Gary A. Bender, P.G.

4.0 ESTIMATED COSTS

The estimated cost to complete the scope of work is \$7,078.00. This cost estimate has been developed based on current knowledge and assumptions (Section 5.0) regarding the site characteristics, the anticipated scope of work described above, previous experience with similar projects, and the Annual Services Contract No. 82407 Fee Schedule.

Work performed under this proposal will be executed on a time-and-materials basis up to the estimated project total. AEE will make every effort to minimize costs and pass on any cost savings realized as part of the project. No additional costs will be invoiced without mutual agreement to a written change order between AEE and the City of Phoenix.

The following is a breakdown of the project costs by task:

Task 1 - Regulatory File Review

Labor

Project Professional (2 hr. @ \$82/hr.)	\$ 164.00
Staff Professional (5 hrs. @ \$70/hr.)	\$ 350.00

Other Direct Costs

Copying, mileage	\$ 50.00
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Task 1 total costs:	\$ 564.00
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Task 2 - Field Investigations (Including HASP preparation)

Labor

Project Reviewer (1 hr. @ \$90/hr.)	\$ 90.00
Project Professional (4 hrs. @ \$82/hr.)	\$ 328.00
Staff Professional (14 hrs. @ \$70/hr.)	\$ 980.00
Environmental Technician (12 hrs. @ \$60/hr.)	\$ 720.00

Other Direct Costs

Concrete Coring Subcontractor	\$ 200.00
Utility Locating Subcontractor	\$ 200.00
Analytical (fuel hydrocarbons, VOCs, 8 RCRA Metals - 4 @ \$456/sample)	\$ 1,824.00
Analytical (fuel hydrocarbons, PAHs - 4 @ \$202/sample)	\$ 808.00

Proposal For Phase II
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(Modification of June 22, 1999 Proposal)
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- It is assumed that all hand augering and soil sampling by AEE can be completed to the required depths. The reported presence of fill material at the Site may prevent hand auger drilling techniques.
- It is assumed that a sludge or sediment sample can be retrieved by AEE from the bell cistern. The presence of cobbles or other coarse fill within the cistern may prevent sampling. If AEE encounters liquids within the cistern that prevents sampling with the hand auger, a representative sample of the liquids will be collected for analysis.
- Sampling will not result in the generation of soil or other residuals requiring disposal. Decontamination rinseate will be spread on concrete on-Site for evaporation.

6.0 LIMITATIONS

AEE will conduct the work outlined in this proposal with the degree of skill and care exercised by other firms practicing at the time and in the same locale under similar conditions. It should be understood that AEE is under no legal obligation to report potentially hazardous conditions to any regulatory agency unless such conditions pose an imminent threat to the public health and welfare. If an imminent health threat is not apparent, we will not compromise the confidential nature of our relationship with you, our client, by releasing information to any outside party prior to informing you and requesting that the appropriate agencies be notified.

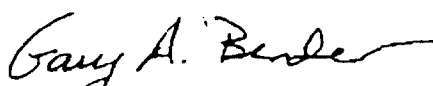
7.0 PROPOSAL ACCEPTANCE

If the scope of work and associated costs described above are acceptable, please prepare and transmit a notice to proceed (NTP) to AEE.

Thank you for this opportunity to present our proposal. We look forward to working with you on this project. If you have any questions or require additional information, please contact us at your convenience.

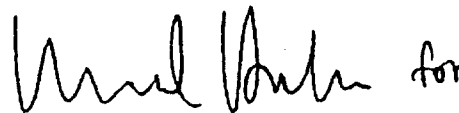
Sincerely,

AGRA Earth & Environmental, Inc.



Gary A. Bender, P.G.
Project Manager

And:



Robert A. Mongrain, P.G.
Manager, Environmental Services

c: Addressee (2)

ESCROW AGENT'S ACCEPTANCE

The foregoing fully executed Agreement and Buyer's Deposit are accepted this 25 day of July, 2001 which for purposes of this Agreement shall deemed to be the date of Opening of Escrow.

ESCROW AGENT:

Chicago Title

By:

Toby Bone
Escrow Officer

PRH/lg

Revised 12/18/01

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**Amendment No. 1 to Real Property Purchase Agreement
Chicago Title Insurance Co. Escrow No. 2113447-45**

THIS Amendment No. 1 is made this ____ day of _____, 2002, by and between the City of Phoenix, a municipal corporation of the State of Arizona ("**Buyer**") and Paul W. Grimmert, Jr. as Successor Trustee of the Grimmert Family Trust, and Individually (collectively, "**Seller**").

RECITALS:

A. Buyer and Seller executed a Purchase Agreement for the sale of real property located at 4141 and 4143 E. Washington St., Phoenix, Arizona ("**the Property**") on or about January 3, 2002, and the agreement was deposited into Escrow No. 2113447-45, Chicago Title Insurance Co. ("**the Purchase Agreement**").

B. The Purchase Agreement contemplates that the Buyer will conduct a Phase II Investigation on the property prior to closing escrow. However, Buyer's Consultant has determined that the Phase II Investigation cannot be completed until operations on the property cease and the occupants have vacated the Premises.

C. Among other conditions precedent to Closing, the Purchase Agreement requires completion of the Phase II Investigation and the City's receipt of a Prospective Purchaser Agreement from the United States Environmental Protection Agency.

D. On or about January 11, 2002, Public Law 101-118, the "Small Business Liability relief and Brownfields Revitalization Act" ("**the Brownfields Act**") was enacted by Congress and signed by the President. The Brownfields Act provides some statutory environmental protections for buyers of real property. The City was unable to obtain assurances from the United States Environmental Protection Agency ("**EPA**") as to whether the statute would substitute for the protections that would be available through the Prospective Purchaser Agreement. Therefore, it remains a condition precedent to the Closing of this transaction that Buyer must receive a Prospective Purchaser Agreement from the EPA.

NOW, THEREFORE, as necessitated by the revised Phase II Investigation Scope of Work and in consideration of the following premises, the receipt and sufficiency of which is hereby acknowledged, and of the mutual agreements and covenants stated below, the parties hereby agree to amend that certain Purchase Agreement that is the subject of the above referenced Escrow as follows:

1. **Page 4, Paragraph 4(b): Close of Escrow.** If Buyer elects to purchase the Property after having received a Prospective Purchaser Agreement from the United States Environmental Protection Agency, and notwithstanding any provision to the contrary in the Purchase Agreement, Seller may elect to extend the Closing Date until Seller's replacement building is constructed and ready for occupancy, but no later than January 31, 2003. Seller shall provide Buyer with a construction schedule as soon as practicable.

2. **Page 5, Paragraph 8, Possession.** If Buyer elects to purchase the Property, Seller shall deliver possession to Buyer prior to the Closing Date. Under no circumstances will Buyer close escrow if Seller or any tenant remains on the Property.

3. **Page 7, Paragraph 13(c), Investigation.** Buyer's Consultant, SA&B Environmental, has indicated that the Phase II Investigation cannot be completed until Seller and all occupants of the property have vacated the Property. City's Consultant has revised the Phase II Scope of Work accordingly and to include some additional testing that is required by the Environmental Protection Agency. **See Revised Phase II Scope of Work, dated April 10, 2002, Exhibit A to this Amendment.** Therefore, Buyer shall perform the Phase II after Closing which Closing is contingent on satisfaction of all other contingencies in Paragraph 13 of the Purchase Agreement, including Buyer's ability to obtain a Prospective Purchaser Agreement from the EPA.

4. **Paragraph 3(c) Payment of Purchase Price; Paragraph 13(c) Investigation.** Seller has deposited \$79,050.00 into Escrow which funds were intended to pay Seller's estimated costs for Seller's share of the remedial and investigative costs of the Phase II Investigation which was planned to occur prior to Closing. However, because of the physical constraints on the Property, the Phase II Investigation cannot be performed unless Seller and all occupants have ceased operations and vacate the Premises. Therefore, the parties agree that the Phase II Investigation will only be performed if Closing occurs, and all funds deposited by Seller into Escrow shall remain in Escrow after Closing. Closing is conditioned upon satisfaction of all contingencies set forth in the Purchase Agreement with the exception of completion of the Phase II ("**the Holdback Funds**"). If Closing does not occur, Seller's deposit shall be fully refunded.

5. **Page 9, Paragraph 13(h): Prospective Purchaser Agreement with EPA.** The parties agree that the Buyer shall have six months from the date that this amendment is executed by the parties and deposited into Escrow to obtain a Prospective Purchaser Agreement from the EPA. If Buyer is unable to obtain a PPA, Seller's Holdback Funds shall be fully refunded and this agreement shall terminate at no cost or obligation on either Buyer or Seller.

6. **Holdback Funds.** If Escrow is closed under the terms of Purchase Agreement, as amended, Buyer shall promptly complete the Phase II Investigation. Buyer

shall then submit invoices to Escrow Agent referencing Buyer's actual expenditures for the Phase II Investigation, including Seller's share of the costs. Escrow Agent shall promptly refund all unexpended funds from the Holdback Funds, if any, to Seller. Seller shall not be required to pay any additional funds to Seller for the Phase II Investigation, regardless of the Consultant's findings.

7. All other terms and conditions of the Real Property Purchase Agreement not inconsistent with this Amendment shall remain in effect.

BUYER: CITY OF PHOENIX, a municipal corporation
FRANK FAIRBANKS, City Manager

By: _____
Roger Whitlock
Acting Real Estate Administrator

Date: _____

SELLER: Grimmer Family Trust

By: _____
Paul W. Grimmer, Jr., Trustee of the Grimmer
Family Trust, and Individually (as owner of lots
11 and 12)

Date: _____

**SA&B****Environmental & Chemical Consultants**
Providing Practical Environmental Solutions*PHOENIX HAZARDOUS*

City of Phoenix
Engineering & Architectural Services Department
200 West Washington Street
Phoenix, Arizona 85003-1611

April 10, 2002

Attn: Mr. R. Blane Work, P.E.
Environmental Engineering Manager

Re: Proposal, Revision 4
Phase II Site Characterization Work Plan
Supreme Auto Care Center and
Drive Line Service of Phoenix, Inc.
4141 and 4143 East Washington Street
Phoenix, Arizona
Project No. AV01000097-S

SA&B Ref. No. P01278F

Dear Mr. Work:

In response to your request, SA&B Environmental & Chemical Consultants (SA&B) is pleased to submit this revised scope of work and associated cost estimate to the City of Phoenix (COP) to conduct Phase II Site Characterization activities at the Supreme Auto Care Center and Drive Line Service of Phoenix, Inc. facilities located at 4141 and 4143 East Washington Street, Phoenix, Arizona, COP Project No. AV01000097-S.

It is our understanding that the Site Characterization work will be completed in accordance with our Annual City of Phoenix Environmental Site Assessment Services Contract Number 99312.

We appreciate this opportunity to provide the City of Phoenix with our environmental consulting services. If you have questions regarding this work plan or associated cost estimates, please contact me at (602) 263-0045.

Sincerely,
SA&B Environmental & Chemical Consultants

Michelle Fowler, P.E.
Senior Project Manager

Copies to: Addressee (2)
Cynthia Parker, City of Phoenix (1)
Tina Washington, City of Phoenix (1)





B A L A N C I N G B U S I N E S S A N D T H E E N V I R O N M E N T



SA&B

Environmental & Chemical Consultants
Providing Practical Environmental Solutions



BALANCING BUSINESS AND THE ENVIRONMENT

APRIL 10, 2002

**PROPOSAL, REVISION 4, TO
CITY OF PHOENIX
FOR
PHASE II SITE CHARACTERIZATION WORK PLAN
SUPREME AUTO CARE CENTER AND
DRIVE LINE SERVICE OF PHOENIX, INC.
4141 AND 4143 EAST WASHINGTON STREET
PHOENIX, ARIZONA
CITY PROJECT NOS. AV01000097-S**



SA&B
Environmental & Chemical Consultants
Providing Practical Environmental Solutions

SA&B Ref. No. P01278F

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Table I - Detailed Cost Estimates Tasks 1-5

Attachment A - AGRA Figures

Figure 1 - Vicinity Map

Figure 2 - Site Map

Figure 3 - Site Detail

**PROPOSAL, REVISION 4
CITY OF PHOENIX
ENGINEERING & ARCHITECTURAL SERVICES DEPARTMENT
PHASE II SITE CHARACTERIZATION
SUPREME AUTO CARE CENTER AND
DRIVE LINE SERVICE OF PHOENIX, INC.
4141 AND 4143 EAST WASHINGTON STREET
PHOENIX, ARIZONA
PROJECT No. AV01000097-S**

SA&B Ref. No. P01278F

1.0 INTRODUCTION

The City of Phoenix (COP) requested that SA&B Environmental & Chemical Consultants (SA&B) submit a proposal to conduct Phase II Site Characterization activities at the Supreme Auto Care Center located at 4141 Washington Street and Drive Line Service of Phoenix, Inc. located at 4143 East Washington Street, Phoenix, Arizona, COP Project No. AV01000097-S (Site). The Site was owned by Mr. Paul Grimmert and occupied by Supreme Auto Care Center and Drive Line Service of Phoenix, Inc. (Drive Line). A general vicinity map and a Site plan are included as Figures 1, 2, and 3, Attachment A.

AGRA Earth & Environmental, Inc. (AGRA) conducted a Phase I Environmental Site Assessment (ESA) of the Site and summarized their results in the June 16, 1999 AGRA report, titled "Phase I Environmental Site Assessment; Supreme Auto Care Center and Drive Line Service of Phoenix, Inc.; 4141 & 4143 East Washington Street; Phoenix, Arizona; Project No. AV01000097-S" (Report; AGRA Job No. 9-114-002118). The Site was a 0.5 acre parcel containing a 6,690 square feet automotive repair facility and a 2,072 square feet driveline manufacturing and repair facility.

COP contracted with SA&B to review the 1999 AGRA Report and perform a Site reconnaissance in 2002 to verify environmental conditions identified by AGRA in 1999 and develop this work plan and associated cost estimates to investigate selected environmental conditions identified at the Site.

Within the limits of the Phase I environmental site assessment conducted by AGRA and the 2002 Site reconnaissance performed by SA&B, the following environmental conditions requiring additional investigation were identified:

- ◆ AGRA had identified three facilities; Capitol Metals Company, Automatic Transmission Exchange, and Laundry Cleaners Supply which may have impacted subsurface soils and/or groundwater beneath the Site based on their proximity and historical facility activities.

- ◆ The on-Site sanitary sewer system consisted of a bell cistern installed when the Site was developed in 1958. Construction details of the bell cistern were not readily available, but, according to AGRA, bell cisterns were typically open-bottomed, at least 15 to 20 feet deep, approximately five feet in diameter, and constructed of brick-lined walls. A sump located at the Site may have discharged to this bell cistern. Historical activities at the Site such as automotive repair and maintenance may have resulted in a discharge of a regulated chemical to the bell cistern.
- ◆ A sump was observed in a garage at the Supreme Auto Care Center facility located on the Site. A pipe was observed inside the sump. The discharge point of this pipe was unknown but assumed to be the bell cistern.
- ◆ A cleaning rack was observed adjacent to a parts washer that used a caustic detergent solution to clean automotive parts. Parts cleaned in the parts washer were given a final water rinse and then air-dried over the rack. Rinsate was collected in a tank under the rack. A rubber hose was observed that drained from the bottom of the cleaning rack to a grassy area located approximately 10 feet southeast of the wash rack. Oils, greases, and other petroleum fluids could have been contained in the spent rinse water discharged to the grassy area.
- ◆ Four hydraulic lifts were observed on the Site. The subsurface tanks of these lifts, which contained hydraulic oil, could have leaked and impacted subsurface soil.

In addition to the above environmental conditions identified by AGRA, SA&B observed an unknown subsurface structure located in the automotive repair facility located on the Site. The Site owner indicated that the structure was a floor safe. Based on EPA comments after the EPA reviewed a draft of this work plan, the City of Phoenix also requested that an investigation be performed in the storage area where 55-gallon drums were identified during the 1999 Phase I ESA.

The COP requested that SA&B prepare a work plan that would address the above listed environmental conditions. SA&B is submitting this proposal for Phase II Site Characterization activities at the Site. The purpose of this work plan is to identify only if one of the above environmental conditions had had an environmental impact on the Site. The proposed Site activities consist of:

Task 1 - Research applicable and readily available Arizona Department of Environmental Quality (ADEQ) files of the adjacent properties Capitol Metals, Inc., Automatic Transmission Exchange, and Laundry Cleaners Supply regarding the status of ADEQ assessments of these facilities and determine the potential for one or more of these facilities to impact subsurface soil and/or groundwater beneath the Site.

- Task 2** - Obtain and analyze a sludge sample from the bell cistern. It was proposed that a sample from inside the bell cistern be collected and analyzed for selected regulated chemicals commonly used at automotive repair facilities.
- Task 3** - Perform a visual assessment of the sump located at 4141 East Washington Street to identify cracks, corrosion, or other evidence which would suggest that the sump leaked and impacted subsurface soils beneath the Site. Material that may be present in the sump would be sampled to characterize the material in the sump. In addition, the pipe in the sump would be traced to identify its discharge location.
- Task 4** - Obtain and analyze subsurface soil samples in the cleaning rack discharge area where spent rinse water had drained to determine if this area had been impacted by the discharge.
- Task 5** - Obtain and analyze subsurface soil samples underneath the underground hydraulic oil reservoirs associated with the hydraulic lifts to determine if these reservoirs had leaked and impacted subsurface soils beneath the Site.
- Task 6** - Remove material in the subsurface structure and inspect it to ensure the structure is intact and there are no cracks or areas of corrosion that could have allowed material to leach through and into the subsurface soils.
- Task 7** - Observe the removal of asphalt in the area where the 55-gallon drums had been stored. Obtain subsurface soil samples beneath the asphalt in this area with sample locations biased to locations of stained soil or soils with a distinctive chemical odor.

The following proposal includes the scope of work and associated cost estimates for Tasks 1 through 7.

In addition to the above tasks, the COP requested that SA&B provide cost estimates for the following optional tasks:

Task 8 (Optional) - Closure of the bell cistern and sump and sampling to determine if the sump or cistern impacted subsurface soils and/or groundwater. One or more of the following steps may be performed to complete Task 8:

- ◆ **Task 8A** - The cistern sediments/sludges would be removed and properly disposed, removing and disposing the concrete or bricks of the cistern walls,

and backfilling the cistern with aggregate base coarse (ABC). In addition, the sump would be removed and the excavation would be backfilled with ABC.

- ◆ **Task 8B** - To determine the potential of groundwater contamination resulting from the use of the sump and bell cistern, perform a review of local groundwater data of nearby facilities.
- ◆ **Task 8C** - Assessment of subsurface soils and groundwater beneath the Site. This assessment could include drilling, subsurface soil sampling, obtaining groundwater samples using the Hydropunch® sampling method, and/or installing and sampling a groundwater monitor well.
- ◆ **Task 8D** - Perform a risk assessment of contaminants in the soil. It is assumed that contaminants would be limited to subsurface soils only, no groundwater contamination, and concentrations of contaminants would exceed their respective Residential SRLs but would be less than their non-Residential SRLs.

Task 9 (Optional) - Remediation of soils in the cleaning rack discharge area. An approximate area of 10 feet by 10 feet of soil in the grassy area would be excavated to an estimated depth of 10 feet below ground surface. The excavated soil would be transported off-Site and disposed at a landfill. At completion of the excavation, soil samples would be collected and analyzed to verify that the contaminated soil had been removed.

Task 10 (Optional) - Remediation of soils impacted by a leak from the underground hydraulic oil reservoirs. A reservoir would be drained, the hydraulic oil properly disposed, excavate and dispose of the lift, and excavate and properly dispose of subsurface soils impacted by the hydraulic oil. It was assumed for this cost estimate that the hydraulic oil could be disposed as a non-hazardous waste and approximately 40 cubic yards of hydraulic oil impacted soil would be generated. One soil sample would be obtained from each excavated area to verify that hydraulic oil impacted soils had been removed then each excavation would be backfilled with ABC.

2.0 SCOPE OF WORK

Prior to the commencement of on-Site activities, a project specific site health and safety plan (SHSP) will be prepared and approved by a certified industrial hygienist. The SHSP will identify emergency procedures and documented potential health and safety concerns associated with sampling activities. All on-Site SA&B project personnel will be required to read and sign the SHSP prior to performing on-Site activities.

SA&B will also contact Blue Stake to evaluate the work area for public buried utilities to prevent injury to on-Site personnel, damage to active buried utilities, and to comply with utility location laws. In addition, SA&B will contract with a private utility locating service to identify private underground utility lines in the work area that may be disturbed by sampling activities.

2.1 Task 1 - Research of ADEQ Records

ADEQ has or is in the process of performing preliminary assessments of the adjacent facilities Capitol Metals, Inc., Automatic Transmission Exchange, and Laundry Cleaners Supply. Applicable ADEQ files for these three facilities will be reviewed. SA&B will use the information generated to develop the following:

- ◆ A determination of the status of the ADEQ investigation at each of the three facilities;
- ◆ An estimate of the extent of contamination in soil and/or groundwater at each facility; and,
- ◆ An evaluation of the potential for contaminants from these facilities to impact the Site.

The costs to complete Task 1 are outlined in Table I. These costs will be paid by the City of Phoenix.

2.2 Task 2 - Sample the Bell Cistern

To determine if the historical usage of the bell cistern had had an environmental impact on the subsurface soils, SA&B will obtain a sample of the sludge/sediment at the bottom of the cistern.

2.2.1 Sampling Protocol

To determine if the contents of the bell cistern would require special handling or disposal, SA&B will obtain a sample of the sludge/sediment at the bottom of the cistern. After removal of the concrete cap over the bell cistern, SA&B will lower a stainless steel hand auger with the appropriate number of five-foot extensions into the bell cistern. SA&B will attempt to auger as deep as possible into the sludges/sediments and obtain a sample. The sludge sample will be collected in two brass sleeves.

In accordance with EPA Preparation Method 5035 for soils to be analyzed for volatile organic compounds (VOCs) using EPA Test Method 8260AZ, a sample will be collected from the material in one brass sleeve using an EnCore Sampler and three EnCore sample containers. These sample containers will be submitted to the analytical laboratory for the VOC analysis.

When an EnCore sample container is packed with soil (approximately 5 grams) it will be sealed with an airtight lid. After the EnCore sample containers are filled with material and sealed, the ends of the brass sleeves with the remaining sample will be covered with first a Teflon then an aluminum foil patch, capped with plastic caps, then sealed with non-volatile, silicon tape.

The sample containers will be labeled with a unique sample identification number. This number, sample time, chemical analyses to be performed, and general comments will be recorded on a Chain-of-Custody (COC) record. The COC record will accompany the samples from the sample location to an Arizona Department of Health Services (ADHS) certified laboratory.

Because of the volatility of potential contaminants, handling and exposure of sample containers to the air will be minimized to the greatest extent possible. Sample containers will be placed in a chilled cooler and kept chilled, using ice, during transfer to the analytical laboratory for analyses.

Sampling equipment that comes into contact with the sludge/sediment that is not single use and disposable, including the hand auger, brass sleeves, and EnCore Sampler handle, will be cleaned in an Alconox®/water solution and rinsed with purified water prior to sampling to prevent cross-contamination between sample locations. Spent wash waters, not expected to exceed five gallons, will be poured out onto the asphalt and concrete of the Site and allowed to evaporate.

2.2.2 Chemical Analyses

The sludge/sediment sample will be analyzed for the following parameters:

ANALYTE	EPA TEST METHOD OR EQUIVALENT
Volatile organic compounds (VOCs)	Preparation Method 5035, Analyses Method 8260AZ
Petroleum hydrocarbons C ₁₀ - C ₃₂	8015AZ R1
RCRA Metals, Total Concentrations (Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium, and Silver)	6010B and 7471

These analytes were selected based on the chemicals observed stored and used at the Site by AGRA in 1999 and during the 2002 SA&B Site reconnaissance.

The costs to complete Task 2 are outlined in Table I.

2.3 Task 3 - Sampling and Assessment of the Sump

To determine if the historical usage of the sump located in the garage at 4141 East Washington Street had had an environmental impact on the subsurface soils at the Site, SA&B will perform a visual assessment of the sump. SA&B assumes that the sump contains no liquid. The sump will then be assessed for cracks, holes, corroded areas, or other types of damage to the sump that could allow the sump contents to leach into the surrounding subsurface soils.

SA&B will trace the pipe located inside the sump to determine its point of discharge. The private utility locator, Underground Detection Service will thread an electrical line through the underground pipe then trace the signal from the surface. It is assumed that this pipe is clear and not clogged with material. The pipe location will be documented on a Site map.

If sediments are located inside the sump, SA&B will sample the sediment.

2.3.1 Sampling Protocol

A sample will be obtained of the sediment using a stainless steel soil scoop and transferring the material into two brass sleeves. Sampling protocol discussed in Section 2.2.1 will be utilized to manage this sediment sample.

2.3.2 Chemical Analyses

The soil samples will be analyzed for the same parameters listed in Section 2.2.2. These analytes were selected based on the chemicals observed stored and used at the Site by AGRA in 1999 and observed during the 2002 SA&B Site reconnaissance.

The costs to complete Task 3 are outlined in Table I.

2.4 Task 4 - Sampling Soils in the Cleaning Rack Discharge Area

To determine if subsurface soils in the location of the cleaning rack discharge area had been impacted by the ponding of rinse water in this area, SA&B will obtain subsurface soil samples in the area where the spent discharge water accumulated.

SA&B will install a single boring in the center of the cleaning rack discharge area where water accumulated. Subsurface soil samples will be collected at 1 foot and 5 feet below ground

surface (bgs). Because the boring installed in the cleaning rack discharge area is shallow, only five feet in total depth, the boring will be backfilled with soil cuttings.

2.4.1 Sampling Protocol

A stainless steel hand auger will be utilized to auger to the selected sample depths. When the selected sample depth is reached, the auger will be extracted and a sampler lined with a brass sleeve will be driven into relatively undisturbed soil to obtain each sample. A slide hammer will be used to drive the sampler lined with the brass sleeve into the subsurface soils. Prior to installing the boring, the auger will be washed in an Alconox/ water solution and rinsed with purified water to prevent contamination of the samples. The sampler will be cleaned before and after each sample event.

Protocol discussed in Section 2.2.1 will be utilized to manage these soil samples.

2.4.2 Chemical Analyses

The soil samples will be analyzed for the parameters listed in Section 2.2.2. These analytes were selected based on the chemicals observed stored and used at the Site by AGRA in 1999 and the 2002 SA&B Site reconnaissance.

The costs to complete Task 4 are outlined in Table I.

2.5 Task 5 - Sampling Beneath Hydraulic Lifts Subsurface Oil Reservoirs

To determine if the subsurface hydraulic oil reservoirs had leaked and impacted the surrounding subsurface soils, SA&B will obtain subsurface soil samples underneath the former locations of the hydraulic oil reservoirs. The reservoirs will be excavated and removed by a City of Phoenix demolition contractor. This contractor will backfill the excavation with ABC after the samples are obtained.

2.5.1 Sampling Protocol

Sampling protocol discussed in Section 2.2.1 and 2.4.1 will be utilized to obtain and manage these soil samples.

2.5.2 Chemical Analyses

The soil samples will be analyzed for the petroleum hydrocarbons C₁₀ - C₃₂ using EPA Test Method 8015AZ R1. The soil sample with the highest petroleum hydrocarbon C₁₀ - C₃₂ concentration or if a soil sample contains a petroleum hydrocarbon concentration that exceeds the Residential SRL for petroleum hydrocarbons C₁₀ - C₃₂ of 4,100 milligrams per kilogram (mg/Kg) will also be analyzed for polynuclear aromatic

hydrocarbons (PAHs) using EPA Test Method 8310. For this project, SA&B assumed that only one of the soil samples obtained from beneath the hydraulic oil reservoirs would be analyzed for PAHs.

The costs to complete Task 5 are outlined in Table I.

2.6 Task 6 - Investigation of Subsurface Structure

The sediments in the subsurface structure will be removed using a stainless steel soil scoop so that the structure can be visually assessed. SA&B will then perform a visual assessment of the structure to identify its construction and its physical integrity. For this proposal, SA&B assumes this structure is a concrete-lined, blind sump. If SA&B determines that this structure could have leaked, the City of Phoenix demolition contractor will remove the structure. A soil sample will be obtained of the subsurface soils beneath the structure only if a distinctive odor or staining is observed. For the purpose of this proposal SA&B assumes that *no* sampling will be performed.

2.7 Task 7 - Sampling of Former Drum Storage Area

A City of Phoenix contractor will be responsible for excavating and removing the asphalt in the former drum storage area. Because the potential exists that chemicals spilled from the drum could have leached into the subsurface soils, SA&B will observe removal activities. SA&B will obtain subsurface soil samples beneath the asphalt of the former drum storage area if subsurface soils beneath this asphalt appear stained or have a distinctive chemical odor. For the purpose of this proposal, SA&B assumes subsurface soil sampling will be performed at two locations, and only two subsurface soil samples will be submitted for analysis.

2.7.1 Sampling Protocol

Soil samples will be collected at a sample depth of 0.5 to one foot bgs, below the zone of volatilization. The soil samples will be obtained and managed using protocol described in Sections 2.2.1 and 2.4.1. Sampling protocol discussed in Section 2.2.1 and 2.4.1 will be utilized to obtain and manage these soil samples.

2.7.2 Chemical Analyses

The soil samples will be analyzed for VOCs using EPA Test Method 8260AZ. As described in Section 2.2.1, the soil samples will be obtained and managed using EPA Preparation Method 5035.

The costs to complete Task 7 are outlined in Table I. It is emphasized that these costs will be paid by the City of Phoenix.

2.8 Task 8 (Optional) - Close Bell Cistern and Sump, Investigate Groundwater, Subsurface Soils

The following general scope of work was developed to close both the bell cistern and sump and investigate subsurface soils and/or groundwater at the Site.

- ◆ **Task 8A** - The cistern sediments/sludges and the sump sediments, if any, would be removed and properly disposed. For this proposal it is assumed that approximately 55 gallons of sludge and 55 gallons of liquid would be removed from the cistern and that both materials could be disposed as a solid waste. Using a backhoe, the concrete or bricks of the cistern walls would also be removed and properly disposed and the cistern would be backfilled with ABC. To permanently remove the sump from service, the City of Phoenix demolition contractor would excavate the sump and backfill the excavation with ABC.

The cost to complete Task 8A is estimated to be \$4,500.

- ◆ **Task 8B** - A review of applicable ADEQ and/or City of Phoenix files would be performed for facilities located within 0.125 miles of the Site to estimate Site-specific groundwater flow direction and groundwater contaminant concentrations upgradient and downgradient of the Site in terms of groundwater flow. This information would be used to determine the potential groundwater contamination resulting from the use of the sump and bell cistern.

The cost to complete Task 8B is estimated to be \$1,875.

- ◆ **Task 8C** - An assessment of subsurface soils and groundwater would be performed beneath the bell cistern and the sump. This assessment will include a subsurface soil investigation which may also include obtaining a groundwater sample using a Hydropunch® sampling method. Both the groundwater sample and soil samples would be analyzed for VOCs, the eight RCRA metals, and fuel hydrocarbons. If local groundwater data indicated that downgradient groundwater quality could potentially have been affected by the bell cistern and/or sump, the Hydropunch® sampling method would not be used. Instead, a groundwater monitor well would be installed, developed, and sampled. It is assumed that two sample events would be performed three months apart to ensure that data obtained from the well was accurate.

If additional characterization of subsurface soils is required, up to three additional borings, spaced at 120 degree angles from one another will be installed and soil samples collected at 10-foot intervals. These soil samples will also be analyzed for VOCs, the eight RCRA metals, and petroleum hydrocarbons C₁₀ - C₃₂.

To develop cost estimates for this optional task it was assumed that the bell cistern and/or sump had **not** impacted groundwater and groundwater was located at 50 feet below ground surface.

The cost to complete Task 8C is estimated to be \$24,050.

- ◆ **Task 8D** - A risk assessment of contaminants in the soil at the Site would be performed to evaluate the risk to human health and the environment. It is assumed that contaminant concentrations would be limited to subsurface soils only (**no** groundwater contamination) and concentrations of contaminants will exceed their respective Residential SRLs but be less than their non-Residential SRLs.

The cost to complete Task 8D is estimated to be \$12,500.

2.9 Task 9 (Optional) - Remediation of Cleaning Rack Discharge Area

An approximate area of soil 10 feet by 10 feet would be excavated to an estimated depth of 10 feet bgs in the cleaning rack discharge area. The excavated soil would be transported off-Site and disposed at a landfill. At completion of the excavation, soil samples would be collected and analyzed to verify that the contaminated soil had been removed.

The cost to complete Task 9 is estimated to be \$7,365.

2.10 Task 10 (Optional) - Remediation of Soils Impacted by a Leak from the Hydraulic Lifts

All reservoirs would be drained and the hydraulic oil properly disposed. The lifts would be excavated and disposed by a City of Phoenix demolition contractor. It is estimated that 10 cubic yards of impacted subsurface soils would be excavated from each lift location and properly disposed off-Site as non-hazardous waste. After removal of the lifts and their subsurface structures, one soil sample would be obtained from each excavated area to verify that hydraulic oil impacted soils had been removed. After being sampled, each excavation would be backfilled with ABC.

The cost to complete Task 10 is estimated to be \$7,450.

2.10 Additional Investigation Work

The City of Phoenix may choose to do additional work outside the scopes of work outlined for Tasks 1 through 10. Except for Task 7, which is to be paid for by the City of Phoenix, these costs would be covered by the City of Phoenix. The additional investigation work may include:

- ◆ Sampling underneath the bell cistern after removal of its contents and prior to its being backfilled with ABC;
- ◆ Sampling underneath the sump after its removal by the City of Phoenix demolition contractor;
- ◆ Additional costs for drilling, well installation, and soil and groundwater sampling around the bell cistern; and
- ◆ Sampling underneath the unknown structure after it is removed (only to be performed if staining or an odor observed)

The total additional cost to complete all of the above tasks listed in section 2.10 is estimated by SA&B to be \$7,200.00

2.11 Report

All activities and analytical results for Tasks 1 through 7 will be summarized into a draft report, and two copies will be submitted to the COP for review. Analytical results will be compared to applicable Residential Soil Remediation Levels, Groundwater Protection Levels, and/or Title 40 Code of Federal Regulations Section 261 (40 CFR 261) Subpart C (Characteristics of Hazardous Waste) and Subpart D (Lists of Hazardous Wastes). Recommendations will be provided whether additional investigation should be performed. Once questions concerning the report are resolved with SA&B and the COP Engineering and Architectural Services Department, six copies of the final report will be provided to the COP. One copy of the report will also be provided on compact disc.

A separate report will be prepared for Optional Tasks 8, 9, and 10 if the COP requests that one or more of these tasks be performed by SA&B.

3.0 PROJECT SCHEDULE

Following is the proposed sequence of events for Tasks 1 through 7:

Project Task	Estimated Number of Work Days	Total Number of Work Days
A. COP review of SA&B work plan (estimate only)	5	5
B. Prepare SHSP (Tasks 2, 3, 4, 5, 6, and 7) Contact Blue Stake (Tasks 2, 3, 4, 5, 6, and 7) Mark sample locations, trace lines, utility location (Tasks 2, 3, 4, 5, 6, and 7) Review ADEQ/COP files (Task 1)	7	12
C. Perform sampling at Site (Tasks 2, 3, 4, 5, and 7) Observe subsurface structure. Schedule based on the assumption of working with the COP demolition contractor.	2	14
D. Analyses of samples, additional file review, begin preparation of report (Tasks 1, 2, 3, 4, 5, and 7)	15	29
E. Preparation of draft report (Tasks 1, 2, 3, 4, 5, 6, and 7)	15	44
F. COP review of draft report, estimate only	5	49
G. Revise and finalize report (Tasks 1, 2, 3, 4, 5, 6, and 7)	5	54

Project schedules will be developed for Optional Tasks 8, 9, and/or 10 if COP decides to implement one or more of these tasks.

4.0 COST ESTIMATE

Cost estimates for Tasks 1 through 7 are outlined in Table I. These costs are based on the assumption that Tasks 1 through 7 can be implemented at the same time and all seven tasks will be performed. Costs for Optional Tasks 8, 9, and 10 are summarized in Table II. The costs for all ten tasks are provided below:

TASKS	ESTIMATED COSTS
Task 1 - File Review	\$1,162.50
Task 2 - Sampling Bell Cistern	\$1,370.07
Task 3 - Assessment of Sump	\$1,347.07
Task 4 - Sampling Discharge Area Soils	\$1,726.32
Task 5 - Sampling Underneath Lifts	\$1,601.97
Task 6 - Observation of subsurface structure	No costs, included with Tasks 1 through 5
Task 7 - Sampling in former drum storage area (to be paid by the COP)	\$1,830.03
Optional Task 8	
♦ Task 8A - Close Cistern and Sump	\$ 4,500.00
♦ Task 8B - Review File for Groundwater Data	\$ 1,875.00
♦ Task 8C - Soil/Groundwater Assessment for cistern and sump	\$24,050.00
♦ Task 8D - Risk Assessment	\$12,500.00
TOTAL (Optional Task 8)	\$42,925.00
Optional Task 9	\$7,365.00
Optional Task 10	\$7,450.00
Report for Tasks 8, 9, and/or 10	\$5,500.00
Additional work to be performed by COP	\$7,200.00

TABLE I
DETAILED COST ESTIMATES

Task Description	Title	Rate	Qty	Units	Sub-Total
Task 1 - Review of ADEQ Files					
A. Review ADEQ files	SPM	\$80.00	6.00	Hours	\$480.00
B. File copying costs (estimate only)	XX	\$50.00	1.00	Event	\$50.00
C. Draft Report preparation, summarize results	PM	\$65.00	5.00	Hours	\$325.00
	WPS	\$45.00	2.00	Hours	\$90.00
	Clerical	\$35.00	0.50	Hours	\$17.50
D. Review Report	PE	\$115.00	0.50	Hours	\$57.50
E. Courier	XX	\$7.50	2.00	Delivery	\$15.00
F. Finalize Report	PM	\$65.00	1.00	Hours	\$65.00
	WPS	\$45.00	1.00	Hours	\$45.00
	Clerical	\$35.00	0.50	Hours	\$17.50
Sub-Total					\$1,162.50
Task 2 - Sampling the bell cistern					
A. Project coordination	PM	\$65.00	0.30	Hours	\$19.50
B. Site Health and Safety Plan	CIH	\$100.00	0.50	Hours	\$50.00
C. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
D. Subcontractor to mark utilities	XX	\$95.83	1.00	Event	\$95.83
E. Oversee marking of utilities	PM	\$65.00	0.40	Hours	\$26.00
F. Travel to Site for Sampling	PM	\$65.00	0.30	Hours	\$19.50
	Tech	\$50.00	0.30	Hours	\$15.00
G. Sample Bell Cistern	PM	\$65.00	1.00	Hours	\$65.00
	Tech	\$50.00	1.00	Hours	\$50.00
H. Sampling supplies + EnCore Samplers	XX	\$65.05	1.00	Event	\$65.05
I. Analyses of samples					
VOCs	8260AZ	\$172.50	1.00	Samples	\$172.50
Total RCRA Metals	6010/7471	\$126.50	1.00	Samples	\$126.50
Petroleum Hydrocarbons	8015AZ	\$74.75	1.00	Samples	\$74.75
J. Draft Report preparation	PM	\$65.00	3.50	Hours	\$227.50
	WPS	\$45.00	2.00	Hours	\$90.00
	Clerical	\$35.00	0.50	Hours	\$17.50
K. Report Review	PE	\$115.00	0.50	Hours	\$57.50
L. Drafting	XX	\$35.94	1.00	Report	\$35.94
M. Courier	XX	\$7.50	2.00	Delivery	\$15.00
N. Finalize Report	PM	\$65.00	1.00	Hours	\$65.00
	WPS	\$45.00	1.00	Hours	\$45.00
	Clerical	\$35.00	0.50	Hours	\$17.50
Sub-Total					\$1,370.07

TABLE I (CONT'D)
DETAILED COST ESTIMATES

Task Description	Title	Rate	Qty	Units	Sub-Total
Task 3 - Assessment of the Sump					
A. Project Coordination	PM	\$65.00	0.30	Hours	\$19.50
B. Site Health and Safety Plan	CIH	\$100.00	0.50	Hours	\$50.00
C. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
D. Contractor to mark utilities, trace line	XX	\$95.83	1.00	Event	\$95.83
E. Observe tracing of line	PM	\$65.00	1.00	Hours	\$65.00
F. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
	Tech	\$50.00	0.30	Hours	\$15.00
G. Observe, sample sump sediment	PM	\$65.00	0.50	Hours	\$32.50
	Tech	\$50.00	0.50	Hours	\$25.00
H. Sampling supplies + EnCore Samplers	XX	\$60.55	1.00	Event	\$60.55
I. Analyses of sediment sample					
VOCs	8260AZ	\$172.50	1.00	Samples	\$172.50
Total RCRA Metals	6010/7471	\$126.50	1.00	Samples	\$126.50
Petroleum Hydrocarbons	8015AZ	\$74.75	1.00	Samples	\$74.75
J. Draft Report preparation	PM	\$65.00	3.50	Hours	\$227.50
	WPS	\$45.00	2.00	Hours	\$90.00
	Clerical	\$35.00	0.50	Hours	\$17.50
K. Report Review	PE	\$115.00	0.50	Hours	\$57.50
L. Drafting	XX	\$35.94	1.00	Report	\$35.94
M. Courier	XX	\$7.50	2.00	Delivery	\$15.00
N. Finalize Report	PM	\$65.00	1.00	Hours	\$65.00
	WPS	\$45.00	1.00	Hours	\$45.00
	Clerical	\$35.00	0.50	Hours	\$17.50
Sub-Total					\$1,347.07
Task 4 - Sampling Soils In Cleaning Rack Discharge Area					
A. Project Coordination	PM	\$65.00	0.30	Hours	\$19.50
B. Site Health and Safety Plan	CIH	\$100.00	0.50	Hours	\$50.00
C. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
D. Contractor to locate utilities	XX	\$95.83	1.00	Event	\$95.83
E. Observe utility location	PM	\$65.00	0.50	Hours	\$32.50
F. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
	Tech	\$50.00	0.30	Hours	\$15.00
G. Sample soils with auger	PM	\$65.00	0.70	Hours	\$45.50
	Tech	\$65.00	0.70	Hours	\$45.50
H. Sampling supplies + EnCore samplers	XX	\$65.05	1.00	Event	\$65.05
I. Analyses of two soil samples					
VOCs	8260AZ	\$172.50	2.00	Samples	\$345.00
Total RCRA Metals	6010/7471	\$126.50	2.00	Samples	\$253.00
Petroleum Hydrocarbons	8015AZ	\$74.75	2.00	Samples	\$149.50

TABLE I (CONT'D)
DETAILED COST ESTIMATES

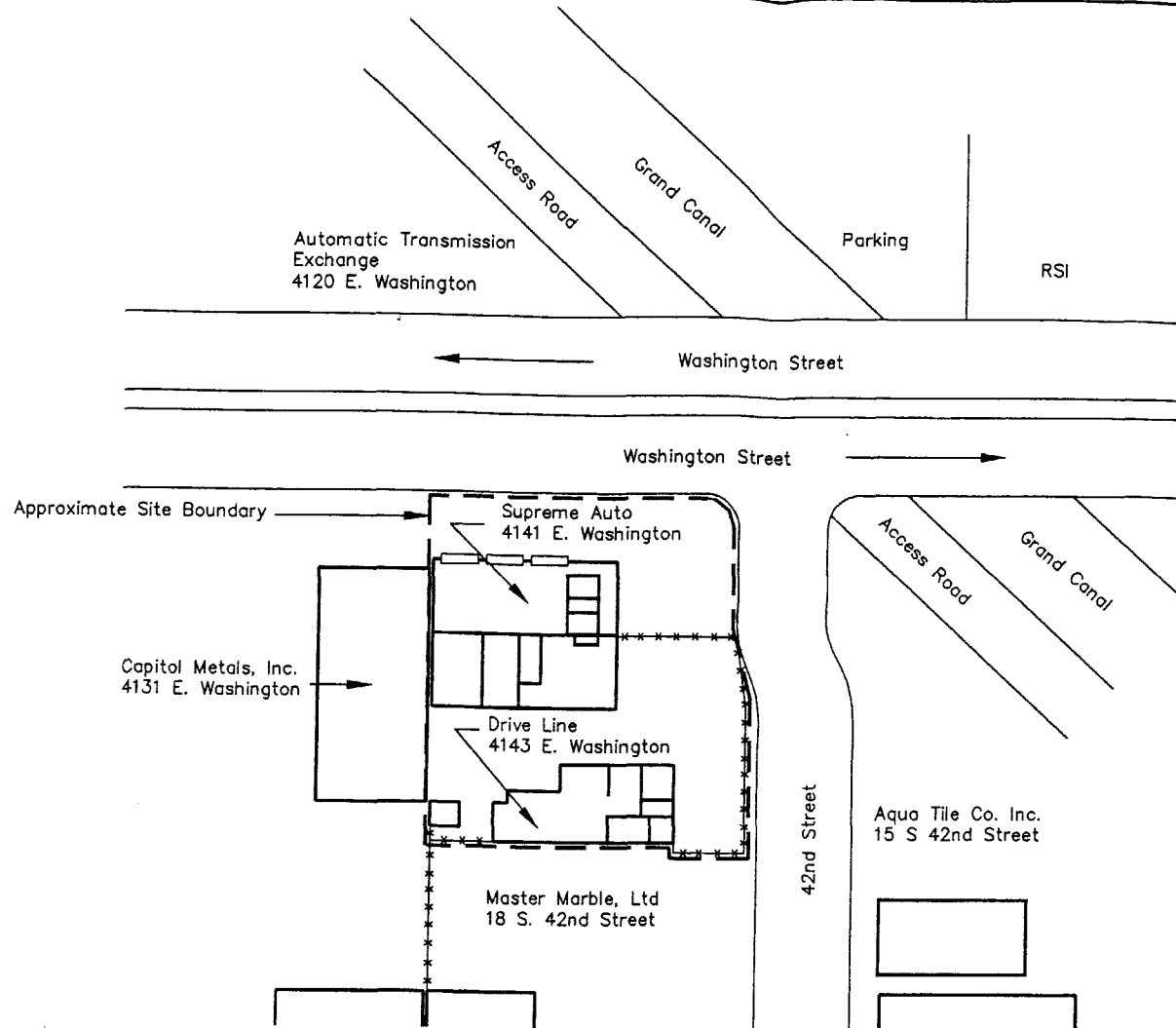
Task Description	Title	Rate	Qty	Units	Sub-Total
Task 4 - Cont'd					
J. Draft Report preparation	PM	\$65.00	3.50	Hours	\$227.50
	WPS	\$45.00	2.00	Hours	\$90.00
	Clerical	\$35.00	0.50	Hours	\$17.50
K. Report Review	PE	\$115.00	0.50	Hours	\$57.50
L. Drafting	XX	\$35.94	1.00	Report	\$35.94
M. Courier	XX	\$7.50	2.00	Delivery	\$15.00
N. Finalize Report	PM	\$65.00	1.00	Hours	\$65.00
	WPS	\$45.00	1.00	Hours	\$45.00
	Clerical	\$35.00	0.50	Hours	\$17.50
Sub-Total					\$1,726.32
Task 5 - Sampling Beneath Hydraulic Lifts					
A. Project Coordination	PM	\$65.00	0.50	Hours	\$32.50
B. Site Health and Safety Plan	CIH	\$100.00	0.50	Hours	\$50.00
C. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
D. Contractor to locate utilities	XX	\$95.83	1.00	Event	\$95.83
E. Observe utility location	PM	\$65.00	0.50	Hours	\$32.50
F. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
	Tech	\$50.00	0.30	Hours	\$15.00
G. Sample soils with auger	PM	\$65.00	2.50	Hours	\$162.50
	Tech	\$65.00	2.50	Hours	\$162.50
H. Sampling supplies	XX	\$142.20	1.00	Event	\$142.20
I. Analyses of four soil samples					
Petroleum Hydrocarbons	8015AZ	\$74.75	4.00	Samples	\$299.00
J. Draft Report preparation	PM	\$65.00	3.50	Hours	\$227.50
	WPS	\$45.00	2.00	Hours	\$90.00
	Clerical	\$35.00	0.50	Hours	\$17.50
K. Report Review	PE	\$115.00	0.50	Hours	\$57.50
L. Drafting	XX	\$35.94	1.00	Report	\$35.94
M. Courier	XX	\$7.50	2.00	Delivery	\$15.00
N. Finalize Report	PM	\$65.00	1.00	Hours	\$65.00
	WPS	\$45.00	1.00	Hours	\$45.00
	Clerical	\$35.00	0.50	Hours	\$17.50
Sub-Total					\$1,601.97
Task 7 - Sampling in Former Drum Storage Area					
A. Project Coordination	PM	\$65.00	0.50	Hours	\$32.50
B. Site Health and Safety Plan	CIH	\$100.00	0.50	Hours	\$50.00
C. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
D. Contractor to locate utilities	XX	\$95.83	1.00	Event	\$95.83
E. Observe utility location	PM	\$65.00	0.50	Hours	\$32.50
F. Travel to Site	PM	\$65.00	0.30	Hours	\$19.50
	Tech	\$50.00	0.30	Hours	\$15.00
G. Sample soils with auger, observe removal of asphalt	PM	\$65.00	2.50	Hours	\$162.50
	Tech	\$65.00	2.50	Hours	\$162.50
H. Sampling supplies	XX	\$142.20	1.00	Event	\$142.20

TABLE I (CONT'D)
DETAILED COST ESTIMATES

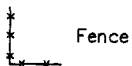
Task Description	Title	Rate	Qty	Units	Sub-Total	
Task 7 - Cont'd						
I. Analyses of two soil samples						
VOCs	8260AZ	\$172.50	2.00	Samples	\$345.00	
J. Draft Report preparation	PM	\$65.00	4.50	Hours	\$292.50	
	WPS	\$45.00	2.00	Hours	\$90.00	
	Clerical	\$35.00	0.50	Hours	\$17.50	
K. Report Review	PE	\$115.00	0.50	Hours	\$57.50	
L. Drafting	XX	\$57.50	1.00	Report	\$57.50	
M. Courier	XX	\$11.50	2.00	Delivery	\$23.00	
N. Finalize Report	PM	\$65.00	2.00	Hours	\$130.00	
	WPS	\$45.00	1.50	Hours	\$67.50	
	Clerical	\$35.00	0.50	Hours	\$17.50	
Sub-Total (to be paid by the COP)						\$1,830.03
TOTAL INCLUDING COSTS TO BE PAID BY THE COP						\$9,037.96
TOTAL NOT INCLUDING COSTS TO BE PAID BY THE COP						\$7,207.93

ATTACHMENT A





Explanation











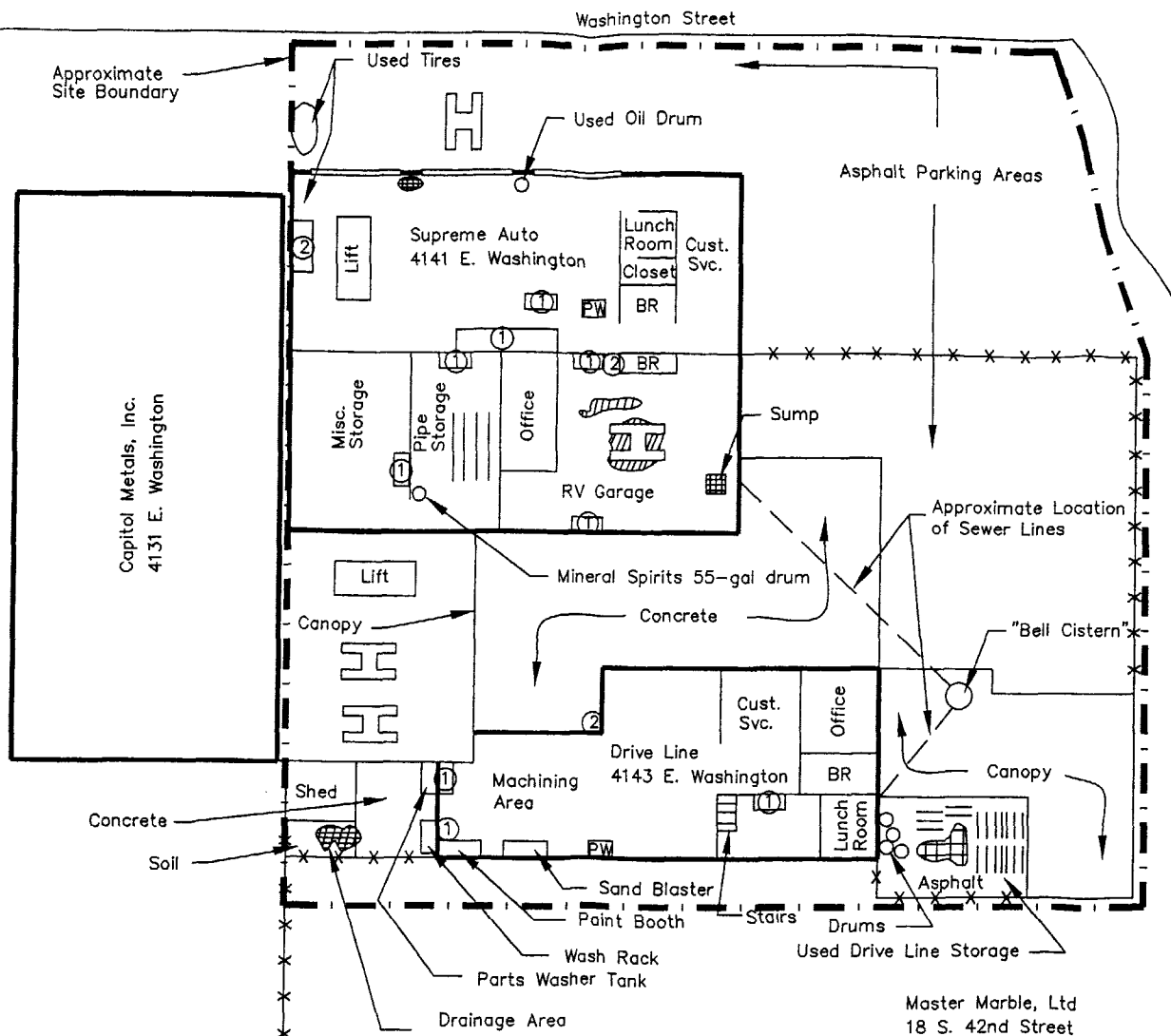
AGRA
Earth & Environmental
ENGINEERING GLOBAL SOLUTIONS
3332 West Virginia Avenue
Phoenix, Arizona 85009-1502
Tel: (602)272-6848
Fax: (602)272-7230

JOB NO. 9-114-002118
DESIGN GB
DRAWN GWH
DATE 6/99
SCALE 1" = 50'

Figure 2 - Site Map
Supreme Auto & Drive Line Service Co.
4141 & 4143 E. Washington Street
Phoenix, Arizona
AV01000097-5

Explanation

-  Hydraulic Lift (Subsurface)
-  Chemical Storage
-  Bathroom
-  Stain
-  Fence
-  Air Compressor
-  Parts Washer
-  Pipe Storage



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 Phoenix, Arizona 85029-1502
 Tel: (602)272-8848
 Fax: (602)272-7239

JOB NO. 9-114-002118
 DESIGN GB
 DRAWN GWH
 DATE 6/99
 SCALE 1" = 20'

Figure 3 - Site Detail
 Supreme Auto & Drive Line Service Co.
 4141 & 4143 E. Washington Street
 Phoenix, Arizona
 AV01000097-5



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